

State of Louisiana * Parish of Ouachita/Morehouse * 4th Judicial District Court

Filed: _____

VS. NUMBER _____ (Division _____)

By Dy Clerk: _____

JOINT STIPULATION TO JUDICIALLY PARTITION COMMUNITY AND CONSENT JUDGMENT APPROVING & HOMOLOGATING SAME

BEFORE the undersigned Notary Public, personally came and appeared Plaintiff, _____, and Defendant, _____, who, after first being duly sworn, stated as follows:

That there are issues before the court which the Plaintiff and Defendant desire to settle amicably, without the need for any judicial proceedings which involve the said issues; that, in order to do so, and in consideration of their mutual agreement to amicably resolve said issues, they hereby jointly stipulate to all of the following:

I. Divorce

The parties were divorced by a judgment of the _____ Judicial District Court, Parish of _____ State of Louisiana, bearing Docket Number _____, signed by the Honorable _____, on the _____ day of _____, 20____. This community property settlement was not signed until after the judgment of divorce had been rendered and signed, and is incidental to the divorce to equally divide the community of acquets and gains which previously existed between the parties.

OR

I. Voluntary Partition of Community Property

There is pending a divorce proceeding between the parties, *A* _____ *versus* _____, @Number _____ on the docket of the _____ Judicial District Court in and for the Parish of _____ State of Louisiana. In conjunction therewith, the parties agree to voluntarily partition the community property acquired by them pursuant to the provisions of the Louisiana Civil Code, including, but not limited to, Article 2336.

II. Full Settlement

The parties desire to settle and liquidate the community that formerly existed between them, and have agreed to do so as set forth in this agreement. Each party makes this settlement and exchange, agreeing that the properties and rights exchanged, transferred and relinquished are an equal and proportionate division of the remaining items of community property. The parties declare themselves satisfied with the accounting that has been made between the parties and waive any right to further accounting from either the community or the parties= respective separate estates.

III. No Encumbrances Created

The parties do not wish nor intend to create any mortgages, *stipulations pour autrui*, privileges, liens, encumbrances, servitudes, or resolatory conditions on any of the property transferred by this Agreement except as otherwise provided and, if for any reason, any such mortgages, *stipulations pour autrui*, privileges, liens, encumbrances, servitudes, or resolatory conditions would be created by this Agreement, each of the parties hereto formally waives any such right or claim, except as otherwise provided.

IV. Conveyances

A. **WIFE** transfers with full and complete subrogation of rights of warranty against all former owners of the property herein conveyed, unto **HUSBAND** who appears herein to accept and acknowledge delivery, all of her undivided right, title, and interest in and to the following property and rights:

- 1.
- 2.
- 3.
4. Except as provided otherwise herein, any and all items of moveable property in his possession at the time of the execution of this agreement, including all of his jewelry, clothing and other tangible items of a strictly personal nature.

Husband-s Initials

Wife-s Initials

B. **HUSBAND** transfers with full guarantee of title and with complete transfer and subrogation of rights of warranty against all former owners of the property herein conveyed, unto **WIFE**, who appears herein to accept and acknowledge delivery, all of his undivided right, title, and interest in and to the following property and rights:

5.

6.

7.

8. Except as provided otherwise herein, any and all items of moveable property in her possession at the time of the execution of this agreement, including all of her jewelry, clothing and other tangible items of a strictly personal nature.

C. The parties hereto agree that any movable property which is not particularly covered in this Agreement will become the property of the party who has the possession of the same at the date of the execution thereof.

D. **WIFE** agrees that she has no interest whatsoever in the following items, and that they either belong to **HUSBAND** or that he is holding them on behalf of a third party; in either event, she waives any and all claims which she may have with regard to the following property:

1.

2.

E. **HUSBAND** agrees that he has no interest whatsoever in the following items, and that they either belong to **WIFE** or that she is holding them on behalf of a third party; in either event, he waives any and all claims which he may have with regard to the following property:

1.

2.

F. In the event there are any equalizing payments to be made by one party to the other party, it is hereby understood and agreed by and between both parties that, in addition to any other remedies provided herein, including, but not limited to the right to seek to have a party held in contempt of court for failing to pay the amount provided within the time period provided herein, the obligor of the equalizing payment shall pay a stipulated *per diem* penalty of \$_____ for each and every day following the deadline, **regardless of the amount remaining to be paid**. Both parties accept this penalty provision with a full understanding that said *per diem* shall not constitute a finance charge, a rate of interest, or a rate which is covered by the applicable laws regarding consumer financing and/or usury, but is an amount which is intended to provide the obligor with an incentive to comply with the terms and conditions of payment and to provide the obligee with a meaningful compensation for the delays associated with the receipt of payment.

V. *Obligations*

A. As additional consideration for the execution of this Agreement, and without which this Agreement would not have been entered into by the parties, **HUSBAND** does hereby assume full and complete responsibility and is hereby liable for full and complete payment of the obligations and liabilities listed below, and agrees to hold **WIFE** harmless, and to fully indemnify and defend her against any claims related to his ownership of the assets conveyed to him in Section IV, above, together with his complete assumption of the following obligations, the amount of which are approximate, as of the date of execution of the instant agreement:

9.

10. Any and all obligations personally incurred by him, regardless of the date on which same was incurred, except as provided otherwise above.

B. As additional consideration for the execution of this Agreement, and without which this Agreement would not have been entered into by the parties, **WIFE** does hereby assume full and complete responsibility and is hereby liable for full and complete payment of the obligations and liabilities listed below, and agrees to hold **HUSBAND** harmless, and to fully indemnify and defend him against any claims related to her ownership of the assets conveyed to her in Section IV, above:

11.

Husband's Initials

Wife's Initials

12. Any and all obligations personally incurred by her regardless of the date on which same was incurred, except as provided otherwise above.

C. Both parties agree and acknowledge that there are no other community debts and that each shall be responsible for obligations individually incurred following the filing of the legal proceedings on or about JUDICIAL DEMAND except to the extent provided otherwise, above.

D. It is understood and agreed that any promises of the Appears herein to pay any indebtednesses enumerated in the Community Property Settlement are subject to an expressed or implied resolatory condition. However, each party hereby waives any vendor's lien privilege, or right of rescission or dissolution for non-performance whether implied by law or otherwise.

VI. Additional Consideration

A. **HUSBAND** does hereby waive any right he may have to rescind any donations made to **WIFE** before, during, and/or after their marriage pursuant to the laws of the State of Louisiana. As additional consideration for the execution of this Agreement, and without which this Agreement would not have been entered into by the parties, **HUSBAND** declares that he does hereby give up, abandon, waive, and forego the following: all monies due his separate estate by and/or from **WIFE**'s separate and/or the community property regime formerly existing between the parties, hereinafter sometimes referred to as *community property estate*; all monies due said community property estate by and/or from **WIFE**'s separate estate and/or community property estate; and any and all accounting due **HUSBAND** by **WIFE** for community property in her possession and/or control from JUDICIAL DEMAND to date.

B. **WIFE** does hereby waive any right she may have to rescind any donations made to **HUSBAND** before, during, and/or after their marriage pursuant to the laws of the State of Louisiana. As additional consideration for the execution of this Agreement, and without which this Agreement would not have been entered into by the parties, **WIFE** declares that she does hereby give up, abandon, waive, and forego the following: all monies due her separate estate by and/or from **HUSBAND**'s separate and/or the community property regime formerly existing between the parties, hereinafter sometimes referred to as *community property estate*; all monies due said community property estate by and/or from **HUSBAND**'s separate estate and/or community property estate; and any and all accounting due **WIFE** by **HUSBAND** for community property in his possession and/or control from JUDICIAL DEMAND, to date.

C. It is also fully understood between the parties that they do hereby each respectively waive any and all claims that either of them may have against the other for any torts or quasi-torts that may have been occasioned by either of them during their marriage.

VII. Legal Expenses

Each party shall bear his or her own court costs, attorney fees, accountant fees, appraiser fees, and other expert fees associated with the prior divorce action, or any action incidental thereto, except to the extent provided otherwise in orders or judgments rendered in said proceeding.

VIII. Insurance

Both parties acknowledge that they are responsible for any liability, casualty, or other type of insurance coverage they desire on the property or assets that they acquire under this agreement and prior partition agreements.

IX. Successors

All of the agreements and stipulations contained in this settlement shall inure to the benefit of and be binding on the heirs, successors, and assigns of the parties.

X. Waiver of Production

A. The parties hereby acknowledge that neither of them has requested nor required their respective attorneys to provide a title examination, title opinion, or mortgage certificate with reference to any property transferred herein. Further, neither party has requested nor required their respective attorneys to verify balances of any indebtedness assumed, or the existence or true value of any asset transferred herein. Instead, the parties accept the representations

made by and to each other with reference to the matters as being true and correct, and each hereby frees and holds his and/or her respective attorneys harmless for not verifying, obtaining, or checking or rendering same. The parties further state that they have furnished to their respective attorneys a copy of the legal descriptions of all real estate involved, and both parties understand that all legal descriptions are per the documents provided by the parties, and that the said attorneys have no responsibility to either of the parties for the legal descriptions of the real estate transferred herein.

B. The parties further acknowledge that neither of them have requested or required an evaluation and survey of any immovable property regarding whether any hazardous waste is contained or present on said property or whether any remediation of said property would be required by federal law through the Environmental Protection Agency or Louisiana law through the Department of Environmental Quality, and they further release their individual attorneys from any professional liability concerning the presence of hazardous waste on their immovable property that may be violative of federal or state law.

XI. Cooperation and Enforcement

A. Both parties further agree to sign simultaneously herewith, or if impossible or grossly inconvenient, as soon as can be accomplished, any documents reasonably necessary to accomplish the purposes and obligations of this agreement, including, but not limited to, deeds, bills of sales, motor vehicle titles, Qualified Domestic Relations Orders, insurance forms, tax return checks, and specifically agree to sign and execute any and all papers necessary to effect a transfer of any immovable property or registered movables mentioned in this settlement.

B. Both parties hereby acknowledge that this agreement is entirely dependent upon the mutual covenants, undertakings and acknowledgments contained herein, and that if either party shall refuse or neglect to carry out any of the duties imposed upon him or her by this agreement, the other party shall, without the necessity of putting in default, have the option of initiating a judicial proceeding for specific performance and/or damages.

C. Further, both parties do hereby expressly authorize the use of summary process in the event that either party should be required to bring the other party back to court to enforce the terms of this agreement and each party does hereby waive any formal objection he or she would have to improper use of summary process in the event that the other party is required to bring an action to enforce the terms of this agreement.

D. Both parties further agree that in the event a party is required to enforce the terms and/or conditions of this agreement by a judicial proceeding, that the party succeeding in procuring judicial enforcement of same shall be entitled to recover reasonable attorney fees, and all court costs and litigation-related expenses, from the other party.

XII. Enhanced Value

Each party reciprocally, totally, and unequivocally releases the other from any claims that one or both parties have or may have that the separate estate of one spouse, or both spouses has or have been enhanced in value since the marriage, and releases any claims that such enhancement is a community asset. Each party further releases the other from all claims for reimbursement of separate funds used for any purpose, including the acquisition, use, or improvement of community property or for the satisfaction of community debts. Each party further releases the other from all claims for reimbursement of community funds used for the benefit of the separate property of either party.

XIII. Claim for Contributions to Education or Training

The parties acknowledge that neither party made financial contributions during the marriage to the education or training of either party that increased earning power, or to the extent such contributions were made, each claimant benefitted from the increased earning power during the marriage. Therefore, the parties renounce and waive all rights granted by LSA CC Article 121, *et seq.*, to sue for claims for contributions to education or training.

ALTERNATIVE PARAGRAPH

The parties acknowledge that _____ supported the family and made financial contributions during the marriage to education and training of _____ that increased his/her earning power. It is further acknowledged that _____ is entitled to benefit from his/her investment, even though the parties have terminated their marriage. Therefore, _____ shall pay _____ the sum of \$_____. This sum shall be payable as follows: (in monthly installments of \$_____, and this sum shall bear interest at the rate of _____% *per annum*. It is specifically understood by the parties that this sum is a division of property, not alimony or maintenance, and that said amounts received by _____ shall not be included in his/her gross income nor deductible by _____.

Husband's Initials

Wife's Initials

XIV. Retirement/Pension Plan Benefits

Alternate A. QDRO

The community interest in the {} Pension Plan of {} is to be distributed through a Qualified Domestic Relations Order (QDRO). The attorney for _____ shall prepare a proposed QDRO and submit it to opposing counsel within fourteen (14) days of this agreement. Opposing counsel shall have fourteen (14) days to return any proposed revisions to the preparing attorney or he shall forfeit his right to object to the proposed QDRO. Immediately thereafter both parties and their attorneys shall take all reasonable steps to expeditiously secure a signed QDRO. The parties further agree to sign all necessary papers and take such actions to have said order approved by a Court of competent jurisdiction. The parties further agree that they will share equally in any administrative fee(s), court costs, or recordation fees incurred in connection with the entry of any Qualified Domestic Relations Order required to partition any community retirement monies.

Alternate B. Waiver

_____, whose social security number is _____, date of birth _____, and whose mailing address is _____, is the former spouse of the participant whose name is _____, social security number _____, date of birth _____, whose mailing address is _____, and who is a participant in the _____ Plan, _____. _____ hereby waives and relinquishes all right, title and interest in and to any benefits under the _____ Plan. _____ is not to be treated as a spouse or surviving spouse for purpose of any election, waiver or consent procedure under the _____ Plan. A certified copy of this Judgment shall be served on the plan administrator who shall promptly notify both the participant and former spouse of receipt of a copy of this Judgment.

XV. Legal Representation

A. UNREPRESENTED PARTY: **WIFE** specifically acknowledges that she has been expressly advised to her right to obtain legal counsel with regard to the negotiation and execution of this Agreement and that she has been encouraged and advised to have this Agreement reviewed by counsel of her own choosing and to be fully advised of her rights herein. In that regard, WIFE acknowledges that she understands that [counsel for husband] does not represent her but rather represents HUSBAND, and that [counsel for husband] has made no representations to her, and any representation she might believe to have been made cannot and should not be relied upon by her, since [counsel for husband] is acting as counsel for HUSBAND, and protecting solely the interests of HUSBAND, to the exclusion of all others. WIFE acknowledges that she has sought the advice of counsel with regard to her rights under this Agreement, or that she has decided to negotiate and execute this Agreement without the benefit of counsel.

B. UNREPRESENTED PARTY: **HUSBAND** specifically acknowledges that he has been expressly advised to his right to obtain legal counsel with regard to the negotiation and execution of this Agreement and that he has been encouraged and advised to have this Agreement reviewed by counsel of his own choosing and to be fully advised of his rights herein. In that regard, HUSBAND acknowledges that he understands that [counsel for wife] does not represent him but rather represents WIFE, and that [counsel for wife] has made no representations to him, and any representation he might believe to have been made cannot and should not be relied upon by him, since [counsel for wife] is acting as counsel for WIFE, and protecting solely the interests of WIFE, to the exclusion of all others. HUSBAND acknowledges that he has sought the advice of counsel with regard to his rights under this Agreement, or that he has decided to negotiate and execute this Agreement without the benefit of counsel.

A. REPRESENTED PARTY: **WIFE** has consulted with and obtained the advice, counsel and representation of [name, address, city, state, zip], the counsel of her choice, with regard to her rights, remedies, privileges and obligations pursuant to this agreement; except that [counsel for wife] has made no warranty as to any tax liability that she may incur pursuant to the terms and provisions herein.

B. REPRESENTED PARTY: **HUSBAND** has consulted with and obtained the advice, counsel and representation of [name, address, city, state, zip], the counsel of his choice, with regard to his rights, remedies, privileges and obligations pursuant to this agreement; except that [counsel for husband] has made no warranty as to any tax liability that he may incur pursuant to the terms and provisions herein.

XVI. Interpretation of Agreement

A. This agreement contains the entire understanding of the parties. There are no representations, warranties, promises, covenants, or undertakings other than those expressly set further herein. **WIFE** and **HUSBAND** have jointly participated in the negotiation and drafting of this agreement. In the event any question of intent or interpretation arises, this agreement shall be construed as if drafted by all parties.

B. This agreement shall be construed in accordance with the laws of the State of Louisiana, entirely independent of the laws of the forum where it may be the subject for judicial construction or enforcement. If a court of competent jurisdiction at any time holds that a portion of this agreement is invalid, void, or unenforceable, the remainder shall not be affected thereby and shall continue in full force and effect.

C. Both parties acknowledge that they are entering into this agreement freely and voluntarily, that they have ascertained and weighed all of the facts and circumstances likely to influence their judgment herein, that they have been duly apprised of their respective legal rights and with respect to all community property and the partition thereof, that all questions pertinent thereto have been fully and satisfactorily explained to them by their respective attorneys, and that they understand clearly and assent to all provisions of this agreement.

D. Each party stipulates that he and she has revealed to the other party all community assets and obligations known to each respective party and agrees that if any community asset has been concealed and not revealed to the other party, that said asset is not partitioned in this agreement but shall remain co-owned in indivision by the parties and shall be subject to supplemental partition proceedings.

E. Both parties agree that any and all restraining orders and/or injunctions which are currently in place which have the effect of prohibiting either party or both parties from selling, donating, wasting, concealing, encumbering, pledging, mortgaging, or otherwise alienating any items of property which are being partitioned herein shall be prospectively terminated, set aside, and canceled, effective with the judicial approval of the *Consent Judgment* attached hereto and made a part hereof.

THUS DONE AND SIGNED by **WIFE** before the undersigned competent witnesses and me, Notary Public, this ____ day of _____, 20__ in the Parish of _____, State of Louisiana.

WITNESSES:

WIFE

NOTARY PUBLIC

THUS DONE AND SIGNED by **HUSBAND** undersigned competent witnesses and me, Notary Public, this ____ day of _____, 2002, in the Parish of _____, State of Louisiana.

WITNESSES:

HUSBAND

NOTARY PUBLIC

State of Louisiana * Parish of Ouachita/Morehouse * 4th Judicial District Court

VS. NUMBER _____ (Division _____)

Filed: _____

By Dy
Clerk: _____

CONSENT JUDGMENT

THE COURT, considering the law and the stipulations of the parties set forth herein above:

IT IS ORDERED, ADJUDGED, AND DECREED that the partition of the community by and between the parties be determined and implemented pursuant to the parties=*Joint Stipulation* which is made a part hereof as if copied *in extenso*, and that the same be and it is hereby judicially homologated.

IT IS FURTHER ORDERED that any and all restraining orders and/or injunctions which are currently in place which have the effect of prohibiting either party or both parties from selling, donating, wasting, concealing, encumbering, pledging, mortgaging, or otherwise alienating any items of property which are being partitioned herein shall be prospectively terminated, set aside, and cancelled, effective with the judicial approval of this *Consent Judgment*.

IT IS FURTHER ORDERED that all costs associated with this proceeding are assessed as follows: _____

THUS ORDERED this _____ day of _____, 20__ in _____ Louisiana.

DISTRICT JUDGE _____

APPROVED AS TO FORM AND CONTENT:

Plaintiff

Defendant

Counsel for Plaintiff

Counsel for Defendant