

STATE OF NORTH CAROLINA

In The General Court Of Justice

MECKLENBURG County

**CERTIFICATE OF
TRUE COPY**

Office of the Clerk of the Superior Court

As Clerk of the Superior Court of this County, State of North Carolina, I certify that the attached copies of the documents described below are true and accurate copies of the originals now on file in this office.

Number And Description Of Attached Documents:

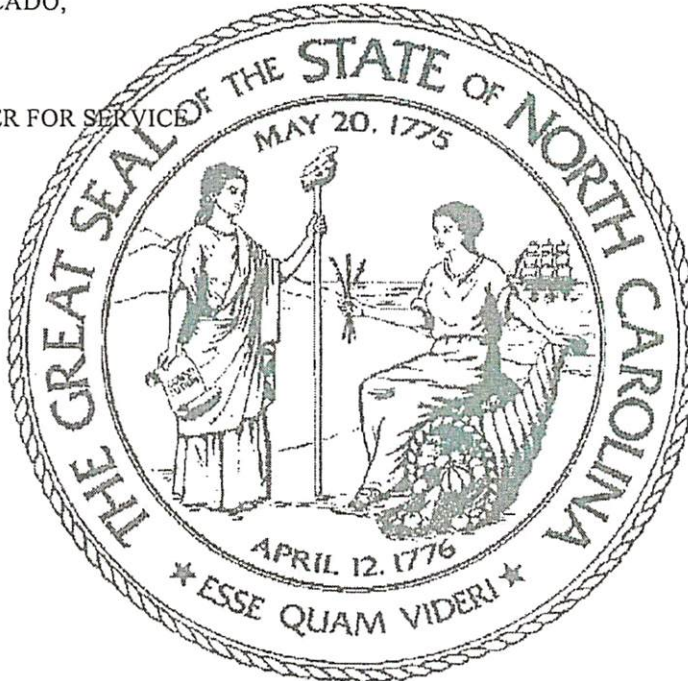
LESLEY CHAMBLESS,

VS.

EMILETH VALVERDE PICADO,

19-CVD-20507

APPLICATION FOR ORDER FOR SERVICE
BY PUBLICATION



Witness my hand and the seal of the Superior Court

Date	10-06-2020
Clerk Of Superior Court	ELISA CHINN-GARY
Signature	<i>Elisa Chinn-Gary</i>
<input checked="" type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
<input type="checkbox"/> Clerk Of Superior Court	

**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG**

**IN THE GENERAL COURT
OF JUSTICE
DISTRICT COURT DIVISION**

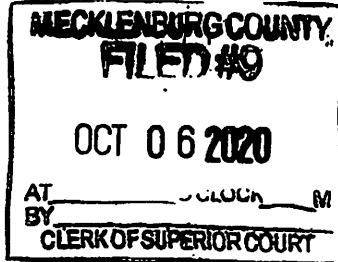
LESLEY CHAMBLESS,

Plaintiff/Wife,

vs.

EMILETH VALVERDE PICADO,

Defendant/Husband.



File No. 19-CVD-20507

APPLICATION FOR ORDER FOR SERVICE BY PUBLICATION

COMES NOW THE PLAINTIFF, LESLEY CHAMBLESS, who submits the Application for Order for Service by Publication.

FACTS OF THE CASE

This case is related to the distribution of assets, as described in the Order/Judgment on Equitable Distribution filed on September 21, 2020.

REQUEST

Plaintiff has been unable to locate a valid address for service on the Defendant, Emileth Valverde Picado a.k.a. Emileth Picado Valverde ("Defendant"). Plaintiff hereby requests that the Court issue an Order for Service by Publication for a minimum period of once a week for four (4) consecutive weeks in the online legal notice publication, *Global Legal Notices*®, a website of

general circulation in Costa Rica which specializes in service by publication and which provides numerous benefits over traditional print newspapers (See Comparison Chart attached herein as Exhibit "A"). Their publication policy is to publish the Order, any notices, and all court-issued documents continuously for a period of four (4) consecutive months, which exceeds statutory requirements, or until such time that it is removed pursuant to court order or request.

ARGUMENT

Plaintiff has attempted unsuccessfully to serve the Defendant utilizing traditional service of process methods. However, Defendant have made himself unavailable for service. There is no known physical address where Defendant can be served. He was last known to have resided in San Jose, Costa Rica.

A thorough and careful search for the home address for the Defendant was conducted and Plaintiff submits to this court the Declaration of Due Diligence Search by Ronald Hastings, an experienced private investigator in the U.S. and Latin America, attached as Exhibit "B", showing the steps taken to locate the Defendant.

The only available alternative method of service is service by publication. However, newspapers in Costa Rica do not allow for publication of legal notices due to the lack of a law providing such method. The only known method for service by publication in Costa Rica is through *Global Legal Notices*® which provides a more thorough method to give actual notice to the Defendant, as described on their legal notice website at www.GlobalLegalNotices.com.

This method allows for a greater opportunity to give actual notice to the Defendant than service by publication in a traditional newspaper. It provides publication of the Court Order, plus the entire set of Court-issued documents. Further, the publication period exceeds the customary once a week for four (4) consecutive weeks by continually publishing the documents for an

indefinite period, or as directed by the Court. In addition, a Google search by the Defendant's name and country will typically appear on page one of the Google search after approximately 5 days, thus, providing a greater opportunity to give actual notice to the Defendant.

POINTS AND AUTHORITIES

The U.S. Supreme Court in *Mullane v. Central Hanover Trust & Bank Co.*, 22 ILL.339, U.S. 306, 70 S. Ct. 652, 94 L. Ed. 865 (1950), found that, "*It is a logical step forward in the evolution of civil procedure that the use of new technologies in common communication be utilized.*"

U.S. courts have reasoned that service by publication on foreign defendants is permitted under Federal Rules of Civil Procedure 4(F)(3). Rule 4 allows service of process on a foreign individual:

- (1) by internationally agreed upon means of service reasonably calculated to give notice;
- (2) by a reasonably calculated method as prescribed by the country's law for service for general actions or as the foreign authority directs to a letter rogatory; or (3) by other means not prohibited by international agreement. Because the 1993 amendments to FRCP 4(F) urge that FRCP (4)(3) be construed liberally, the courts have interpreted FRCP 4(F)(3) as authorizing them to utilize technological advancements for serving foreign defendants.

Federal Rules of Civil Procedure, Rule 4((3)(1) provides that "*Service of an individual . . . may be effected in any judicial district of the United States pursuant to the law of the state in which the district court is located . . .*"

Further, North Carolina Rules of Civil Procedure provides for service by publication upon order of the Court.

The challenge facing Plaintiff in this case is there are no traditional newspapers in Costa Rica that will allow for publication of legal notices which originate in courts in the United States.

CONCLUSION

Global Legal Notices® offers an improved method of providing actual notice to a Defendant of a pending lawsuit while satisfying the Court's requirements for service by publication. It is widely held that service by publication has a limited success rate in providing actual notice to a Defendant that a legal case is pending. Yet, courts routinely issue an Order allowing for service by publication in a newspaper, either print or online, as a last resort method to complete service of process.

Wherefore, Plaintiff respectfully requests that the Court issue an Order for Service by Publication in the instant case.

Respectfully submitted,



Seth A. Glazer
Attorney for Plaintiff, Lesley Chambless

ORDER FOR SERVICE BY PUBLICATION

IT IS SO ORDERED that the Order/Judgment on Equitable Distribution, the Order for Service by Publication, all related court-issued documents shall be published in *Global Legal Notices*, a legal notice publication of general circulation in Costa Rica, for a period of four (4) consecutive weeks and that Proof of Publication be filed with this Court no later than thirty (30) days after completion of the publication.

Signed this 6 day of October, 2020.



Honorable Christy T. Mann, Judge
General Court of Justice, District Court Division

Comparison Chart

International Service by Publication

Features	Global Legal Notices	Traditional Newspapers
Publish court Notice of Publication	Yes	Yes
Open access to public	Yes	Yes
Publish actual court documents	Yes	No
Search engine friendly	Yes	No
Extended publication period	Yes	No
Available in all countries	Yes	No
Translation in multiple languages	Yes	No
Email notification	Yes	No
Unlimited size of notice	Yes	No
Exceeds minimum requirements	Yes	No
Search by name or case number	Yes	No
Available on computer and cell	Yes	No
Cost efficient	Yes	No
Includes certified proof of publication	Yes	No
Includes Affidavit of Service	Yes	No
Easy access to publisher	Yes	No

Exhibit "A"

DECLARATION OF DUE DILIGENCE SEARCH

I declare, under penalty of perjury of the laws of the State of North Carolina, that the following is true and correct to the best of my knowledge and that I could competently testify, if called, to the following:

1. I am an experienced private investigator who performs investigative services for Process Service Network, LLC, and Global Legal Notices, LLC, with extensive experience in international locates. I am over the age of 18 years, and not a party to the within-named action. I can competently testify to the facts stated and declared within.
2. In November 2019, I received an assignment from the law firm Godley, Glazer & Funk, PLLC, along with written instructions to locate and serve the named Defendant, **Emileth Valverde Picado** ("Defendant"), in the case **Lesley Chambless v. Emileth Valverde Picado** at an unknown address to be located in Costa Rica.
3. I conducted a search to locate the whereabouts of the Defendant. The following is a result of that search:
4. Search using Facebook, Twitter, Instagram, MySpace, YouTube, Google+, WhatsApp, WeChat, Line and Foursquare. Result: Numerous similar names were located but none were a match to the Defendant.

California All-Purpose Acknowledgment


A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California |
County of Los Angeles | ss.

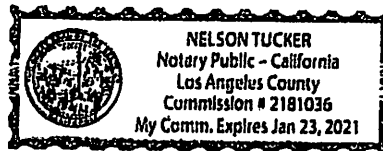
On October 2, 2020, before me, Nelson Tucker, Notary Public, personally appeared Ronald Hastings, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and Official Seal.



Nelson Tucker, Notary Public
My Commission Expires January 23, 2021



STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

FILED
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IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
19-CVD-20507 (CTM)

LESLEY CHAMBLESS,
Plaintiff/Wife,

vs.

EMILETH VALVERDE PICADO,
Defendant/Husband.

ORDER/JUDGMENT ON EQUITABLE DISTRIBUTION

THIS CAUSE coming on to be heard and being heard on July 31, 2020 before the Honorable Christy T. Mann, District Court Judge presiding over the non-jury civil session of District Court for Mecklenburg County, North Carolina on Plaintiff's claim for Equitable Distribution.

AND IT APPEARING TO THE COURT that Plaintiff (hereinafter "Wife"), and Wife's attorney of record, Seth A. Glazer, of the law firm Godley, Glazer, & Funk, PLLC were present in Court, and Defendant, Emileth Valverde Picado (hereinafter "Husband"), had notice of the trial on Wife's claim for Equitable Distribution, and was not present in court and was not represented by an attorney.

AND IT FURTHER APPEARING TO THE COURT, that based on a review and consideration of the pleadings, and the evidence presented by Wife, and arguments of Wife's Counsel, the Court makes the following Findings of Fact, draws the following Conclusions of Law, and enters the following Order:

FINDINGS OF FACT

1. Wife is an adult resident of Mecklenburg County, North Carolina, and has been for more than six (6) months preceding the filing of Wife's Complaint.
2. Husband was an adult resident of Mecklenburg County, North Carolina. Husband has fled the United States to Costa Rica. Husband is a dual citizen of the United States and of Costa Rica.
3. Wife and Husband are natural persons, are under no legal disability, and are over the age of eighteen (18) years.
4. Venue of this action is proper in Mecklenburg County, North Carolina, the residence of Wife, and former residence of Husband.
5. The Court has subject matter jurisdiction over the claims raised by Wife's Complaint for Equitable Distribution.
6. The Court has personal jurisdiction over Husband and Wife.

7. Wife and Husband were married on June 13, 2012, in Mecklenburg County, North Carolina and began living separate and apart on September 6, 2019 and have continued to live separate and apart since that date.
8. No children were born to the marriage of the parties.
9. Wife has two (2) adult children from a prior marriage, a daughter, Grace Chambless, and a son, Ben Chambless. Ben has Down Syndrome which requires special attention and assistance from Wife, both personally and financially. Additionally, Ben will require this special attention and assistance from Wife for the rest of his life.
10. Throughout her life, and during the parties' marriage, Wife has always been financially responsible and a good saver which allowed the parties to create a relatively sizable marital estate.
11. During the parties' marriage, Husband was given the opportunity to save a substantial portion of his earned income with Wife's assistance.
12. On or about September 6, 2019, Wife found extremely disturbing, pornographic, timestamped videos on Husband's phone of Wife's daughter. The videos on Husband's phone were from 2017, when Wife's daughter was sixteen (16) years old. The videos were taken without the knowledge or consent of Wife or Wife's Daughter. The videos were disseminated to an online website without the knowledge or consent of Wife or Wife's daughter. The videos contained images of Wife's daughter while she was nude in her bedroom. The videos focused on her genitalia and they were edited to be erotic in nature.
13. On September 6, 2019, Wife confronted Husband about these videos, and shortly after the discussion between the parties, Husband had a seizure and was taken to the hospital in an ambulance.
14. On September 6, 2019, after being released from the hospital, Husband checked into a hotel and has not returned to the former marital residence since.
15. On September 8, 2019, Husband boarded an early morning flight and fled to Costa Rica and has not returned since.
16. Since Husband's departure to Costa Rica, Husband has not informed Wife of his whereabouts in Costa Rica, and given that Husband has not returned to the United States since September of 2019, this Court finds that it is likely that Husband has no intention of returning to the United States, or informing Wife of his whereabouts.

17. On September 9, 2019, the Mecklenburg County Sheriff's Office issued an arrest warrant for Husband based upon information which Wife provided to the authorities. Husband has currently been charged by the State with four (4) counts of felony child pornography and distribution of child pornography, as well as Misdemeanor Voyeurism. Additionally, the Federal Bureau of Investigation is actively investigating Husband and actively pursuing federal charges of has a case of child pornography and distribution of child pornography.
18. Based upon the severity of Husband's pending criminal charges, as well as the likely additional criminal charges, Husband is unlikely to return to the United States.
19. Further, Wife was informed by Detective McBroom of the Charlotte-Mecklenburg Police Department, that if Husband returns to the United States, or goes to a country that is extradition friendly with the United States, he will be arrested and likely spend the rest of his life in jail.
20. On October 9, 2019, Wife received an email from Husband from the email address, emileth@juno.com, in which Husband requested that Wife give all of his belongings to his children. Thereafter, Wife attempted to have additional communications with Husband to learn his whereabouts, but her attempts were unsuccessful.
21. On October 18, 2019, Wife filed a verified Complaint, raising a claim for Equitable Distribution, and a Motion for Interim Distribution.
22. On October 18, 2019, a Civil Summons was filed with the Mecklenburg County Clerk of Court.
23. Due to Husband fleeing the United States, along with his lack of communication to Wife about his whereabouts, Wife and Counsel for Wife hired a private investigator through the Process Service Network to try to locate Husband in Costa Rica to have him personally served with the Complaint and Summons.
24. Based on Wife's knowledge, she believed that Husband was living in an apartment building that Husband's sister owns in Costa Rica. All of this information, and more, was provided to the private investigator, but despite all efforts, the private investigator was unable to locate Husband.
25. On December 12, 2019, an Alias and Pluries Civil Summons was filed with the Mecklenburg County Clerk of Court.
26. On January 8, 2020, an Alias and Pluries Civil Summons was filed with the Mecklenburg County Clerk of Court.
27. After exhausting all efforts to have Husband personal served with the Complaint and Summons, Counsel for Wife sought to have Husband served via publication, through a Process Service Network affiliated company called Global Legal Notices, LLC.

28. On January 10, 2020, Counsel for Wife hand-delivered correspondence to this Court explaining the facts and circumstances regarding the difficulty of having Husband personally served with the Complaint and the necessity to have Husband served via publication and enclosed copies of the Application for Order for Service by Publication, as well a copy of the Complaint.
29. On January 14, 2020, this Court entered an Order for service by publication through Global Legal Notices, LLC.
30. Global Legal Services, LLC, ran the publication once a week for four (4) consecutive weeks, in the online legal notice publication, Global Legal Notices (<http://www.globallegalnotices.com/costa-rica/emileth-valverde-picado/>).
31. Additionally, Pursuant to N.C.G.S. 1A-1, Rule 4, service by publication is required to run once a week for three (3) consecutive weeks, however, Wife and Counsel for Wife chose to run the publication for four (4) consecutive weeks.
32. On January 15, 2020, Counsel for Wife sent correspondence to Process Service Network, enclosing a copy of the certified Order for the Application for Order for Service by Publication, as well as various pleadings in the matter that had already been filed.
33. On February 19, 2020, Wife filed an Affidavit of Service by Publication.
34. In addition to the foregoing service efforts, and as a result of Wife knowing that Husband's email address is working as referenced above, Counsel for Wife has since sent all communications to Husband and pleadings in this matter to Husband via email at emileth@juno.com.
35. On February 19, 2020, Counsel for Wife sent correspondence to Husband via email, enclosing a copy of the file stamped Affidavit of Service by Publication via email.
36. On May 18, 2020, Wife filed an Equitable Distribution Affidavit of Plaintiff/Wife.
37. On May 18, 2020, Wife also filed a Motion for *Ex Parte* Temporary Restraining Order and Motion for Mandatory Injunction.
38. On May 18, 2020, Counsel for Wife sent correspondence to Husband via email, enclosing a copy of the file stamped copy of Wife's file stamped Equitable Distribution Affidavit, a file stamped copy of the Motion for *Ex Parte* Temporary Restraining Order and Motion for Mandatory Injunction, and a draft Order Granting Wife's Motion for *Ex Parte* Temporary Restraining Order and Motion for Mandatory Injunction via email.
39. On May 20, 2020, this Court entered an Order Granting Plaintiff's Motion for *Ex Parte* Temporary Restraining Order which subsequently set a hearing for Wife's Motion for Mandatory Injunction on Monday, June 15, 2020, at 9:00 AM. Both parties received notice of this hearing directly from the Court.

40. The Order Granting Plaintiff's Motion for *Ex Parte* Temporary Restraining Order granted Wife the authority to take any actions/make any investment decisions necessary, and as recommended by her financial advisor, in order to preserve the parties' marital estate. Said Order, also directed the various companies that manage the various investment/retirement accounts to follow any and all directions given by Wife with respect to any investment changes without the joinder of Husband.
41. On May 22, 2020, Counsel for Wife sent correspondence to Husband via email, enclosing the file stamped Order Granting Plaintiff's Motion for *Ex Parte* Temporary Restraining Order and a copy of the file stamped Certificate of Service via email.
42. On June 15, 2020, this Court had a hearing on Wife's Motion for Mandatory Injunction.
43. On June 17, 2020, this Court entered an Order Granting Plaintiff/Wife's Motion for Mandatory Injunction.
44. The Order Granting Plaintiff/Wife's Motion for Mandatory Injunction, granted Wife with the ongoing authority to continue to take any actions/make any investment decisions necessary with respect to the various accounts, and as recommended by her financial advisor, in order to preserve the parties' marital estate. Said Order also directed the various companies that manage the accounts (funds/assets) referenced in the Order to follow any and all ongoing directions of Wife regarding any investment changes made at Wife's request, and without the joinder of Husband.
45. On June 18, 2020, Counsel for Wife sent correspondence to Husband via email, enclosing a file stamped copy of the Order Granting Plaintiff/Wife's Motion for Mandatory Injunction and a copy of the file stamped Certificate of Service.
46. On July 17, 2020, Wife filed a Notice of Hearing, which set her claim for Equitable Distribution to be heard on July 31, 2020.
47. On July 17, 2020, Counsel for Wife sent correspondence to Husband via email, enclosing a copy of the file stamped Notice of Hearing.
48. On July 30, 2020, Counsel for Wife's office sent correspondence to Husband via email, enclosing a copy of the Final Pretrial Order, however, Counsel for Wife received no response from Husband.
49. On July 31, 2020, this Court had a trial on Wife's claim for Equitable Distribution.
50. The total fair market value of the parties' marital and divisible property and debts is \$772,217.49.

51. During the course of the marriage and prior to the date of separation, the parties acquired various items of real property, personal property, and debts which are classified as marital and/or divisible property as referenced below.
52. Husband has significant separate property in excess of \$300,000.00, as well as additional assets of unknown values in Costa Rica.

**FINDINGS OF FACT RELATED TO STATUTORY FACTORS OUTLINED IN
N.C.G.S. 50-20 (C) ET SEQ., SUPPORTING THE COURT'S AWARD OF AN
UNEQUAL DISTRIBUTION TO WIFE**

53. Wife presented evidence of the effects that Husband's egregious behavior had on her and her family, resulting in Husband leaving Wife to bear the financial burden as a result.
54. This Court attributed substantial weight to Husband's abhorrent behavior and the financial burden left on Wife as a result.
55. Pursuant to North Carolina General Statutes ("N.C.G.S.") §50-20(c)(2) *et seq.*, this Court finds that as a factor in the unequal equitable distribution in favor of Wife, that Wife has an obligation of support arising out of a prior marriage with respect to her son Ben. Ben has Down Syndrome which requires special attention and assistance from Wife, both personally and financially. Additionally, Ben will require this special attention and assistance from Wife for the rest of his life.
56. Pursuant to N.C.G.S. §50-20(c)(3) *et seq.*, this Court finds that as a factor in the unequal equitable distribution in favor of Wife, that due to the egregious acts of Husband, Wife and her family have suffered, and will continue to suffer substantial mental health issues. As a result, Wife has incurred and expects to incur substantial expenses with respect to the ongoing mental health treatment for Wife and her daughter.
57. Pursuant to N.C.G.S. §50-20(c)(5) *et seq.*, this Court finds that as a factor in the unequal equitable distribution in favor of Wife, that Husband has an expectation of his own retirement that is his separate property, specifically, Husband's Guidestone IRA Account (#1860), Husband's Guidestone Roth IRA Account (#1917), and Husband's Fidelity 403(b) Account.
58. Pursuant to N.C.G.S. §50-20(c)(6) *et seq.*, this Court finds that due to the fact Wife was the primary wage earner during the parties' marriage and contributed a majority of her income to the parties living expenses, and due to the fact that Husband was able to save a majority of his income to his savings and retirement, this Court finds an unequal distribution of the parties' marital estate in favor of Wife.
59. Pursuant to N.C.G.S. §50-20(c)(9) *et seq.*, this Court finds that as a factor in the unequal equitable distribution in favor of Wife, a majority of the marital and divisible estate is of nonliquid character.

60. Pursuant to N.C.G.S. §50-20(c)(11) *et seq.*, this Court finds that as a factor in the unequal equitable distribution in favor of Wife, because of the nonliquid character of various assets of the marital estate, there will be significant tax consequences to Wife in the event she chooses to liquidate said assets.
61. Pursuant to N.C.G.S. §50-20(c)(11a) *et seq.*, this Court finds that as a factor in the unequal equitable distribution in favor of Wife as a result of Husband's egregious acts against Wife's daughter, he left the United States and left Wife bearing the financial responsibility of all expenses related to the marital residence, the parties vehicles, and various debts incurred by the parties.
62. As a result of the foregoing, this Court finds it equitable to distribute 97.84% of the parties' marital/divisible estate to Wife, and the remaining 2.16% to Husband.

Real Property

63. As of the date of separation, the parties' jointly owned real property located at 10005 Janeiro Drive, Huntersville, North Carolina 28078 (hereinafter the "Former Marital Residence").
 - a. After considering the evidence presented, this Court finds that the Former Marital Residence is marital property subject to distribution by this Court.
 - b. The Former Marital Residence had a date of separation fair market value of \$312,800.00 and had a date of trial fair market value of \$312,800.00. Since the parties' date of separation there has not been an increase in the fair market value in the Former Marital Residence.
 - c. The Former Marital Residence had a date of separation mortgage balance of \$239,091.22.
 - d. The date of trial mortgage balance for the Former Marital Residence is \$232,883.59.
 - e. Since the date of separation, Wife paid down approximately \$6,207.63 of the outstanding mortgage balance on the Former Marital Residence. The decrease in the mortgage debt is active and thus is not divisible property subject to distribution by this Court.
 - f. The Former Marital Residence has a marital/divisible value of \$73,708.78.

Vehicles

64. As of the date of separation, Husband owned and still owns a 1999 Toyota Tacoma.
 - a. The 1999 Toyota Tacoma is titled in Husband's sole name.

- b. After considering the evidence presented, the Court finds that the 1999 Toyota Tacoma is marital property.
 - c. The 1999 Toyota Tacoma had a date of separation value of \$4,000.00 and had a date of trial value of \$3,000.00.
 - d. The 1999 Toyota Tacoma's decrease in value of (\$1,000.00) is passive and thus, is divisible property subject to distribution by this Court.
 - e. The marital/divisible value of the 1999 Toyota Tacoma is \$3,000.00.
65. As of the date of separation, Husband owned a 2005 Toyota Solara.
- a. The 2005 Toyota Solara is titled in Husband's name.
 - b. After considering the evidence presented, the Court finds that the 2005 Toyota Solara is marital property.
 - c. Husband's 2005 Toyota Solara had a date of separation value of \$6,000.00 and had a date of trial value of \$5,000.00.
 - d. The 2005 Toyota Solara's decrease in value of (\$1,000.00) is passive and thus, is divisible property subject to distribution by this Court.
 - e. The marital/divisible value of the 2005 Toyota Solara is \$5,000.00.

Bank Accounts

66. As of the date of separation, the parties' jointly owned a Peoples Bank Checking Account (#5482).
- a. After considering the evidence presented, the Court finds the parties' joint Peoples Bank Checking Account (#5482) is marital property, subject to the distribution of this Court.
 - b. The parties' joint Peoples Bank Checking Account (#5482) had a date of separation value of \$65,804.62 and had a date of trial value of \$0.00. The decrease in value is active and thus, is not divisible property subject to distribution by this Court.
 - c. On February 20, 2020, Wife closed the Peoples Bank Checking Account (#5482). The funds in said account were transferred to Wife's separate bank account with Peoples Bank and \$45,000.00 of the funds was transferred to Wife's Vanguard Individual Brokerage Account (#5909).
 - d. The marital/divisible value of the parties' joint Peoples Bank Checking Account (#5482) is \$65,804.62.

67. As of the date of separation, the parties' jointly owned a Peoples Bank Checking Account (#6985).
- a. After considering the evidence presented, the Court finds the parties' joint Peoples Bank Checking Account (#6958) is marital property, subject to the distribution of this Court.
 - b. The parties' joint Peoples Bank Checking Account (#6958) had a date of separation value of \$30,412.68 and had a date of trial value of \$0.00. The decrease in value is active and thus, is not divisible property subject to distribution by this Court.
 - c. On February 29, 2020, Wife closed the Peoples Bank Checking Account (#6985). The funds were transferred to Peoples Bank (#5482), before the funds were ultimately transferred to Wife's Vanguard Individual Brokerage Account (#5909) and Wife's separate Peoples Bank Account.
 - d. The marital/divisible value of the parties' joint Peoples Bank Checking Account (#5909) is \$30,412.68.
68. As of the date of separation, the parties' jointly owned a Peoples Bank Savings Account (#2595).
- a. After considering the evidence presented, the Court finds the parties' joint Peoples Bank Savings Account (#2595) is marital property, subject to the distribution of this Court.
 - b. The parties' joint Peoples Bank Savings Account (#2595) had a date of separation value of \$784.98 and had a date of trial value of \$0.00. The decrease in value is active and thus, is not divisible property subject to distribution by this Court.
 - c. On September 30, 2019, Wife closed the parties' joint Peoples Bank Savings Account (#2595).
 - d. The marital/divisible value of the parties' joint Peoples Bank Checking Account (#2595) is \$784.98.
69. As of the date of separation, Wife owned a Wells Fargo Bank Checking Account (#3180).
- a. After considering the evidence presented, the Court finds Wife's Wells Fargo Bank Checking Account (#3180) is marital property, subject to the distribution of this Court.
 - b. Wife's Wells Fargo Bank Checking Account (#3180) had a date of separation value of \$1,547.81 and had a date of trial value of \$9,765.92. The increase in value of \$8,218.11 is active and thus, is not divisible property subject to distribution by this Court.

- c. The marital/divisible value of Wife's Wells Fargo Bank Checking Account (#3180) is \$1,547.81.
70. As of the date of separation, Wife owned a Bank of America Health Savings Account.
- a. After considering the evidence presented, the Court finds Wife's Bank of America Health Savings Account is marital property, subject to the distribution of this Court.
 - b. Wife's Bank of America Health Savings Plan had a date of separation value of \$5,255.19 and had a date of trial value of \$4,203.49. The decrease in value of (\$1,051.70) is active and thus, is not divisible property subject to distribution by this Court.
 - c. The marital/divisible value of Wife's Bank of America Health Savings Plan is \$5,255.19.

Investment Accounts

71. As of the date of separation, the parties' owned a Vanguard Brokerage Account (#9221).
- a. After considering the evidence presented, the Court finds the parties' joint Vanguard Brokerage Account (#9221) is marital property subject to distribution by the Court.
 - b. The parties' joint Vanguard Brokerage Account (#9221) had a date of separation value of \$43,365.30 and had a date of trial value of \$43,806.76. The increase of in value of \$441.46 is passive and thus, is divisible property subject to distribution by this Court.
 - c. On June 15, 2020, Wife transferred funds, pursuant to this Court's Order Granting Wife's Motion for Temporary restraining Order and Order Granting Wife's Motion for Mandatory Injunction, to open Vanguard Brokerage Account (#2134) in Wife's sole name.
 - d. The marital/divisible value of the parties' joint Vanguard Brokerage Account (#9221) is \$43,806.76.
72. As of the date of separation, the parties' owned a Guidestone Investment Account (#1365).
- a. After considering the evidence presented, the Court finds that the parties' joint Guidestone Investment Account (#1365) is marital property subject to distribution by the Court.

- b. The parties' joint Guidestone Investment Account (#1365) had a date of separation value of \$46,079.70 and had a date of trial value of \$47,224.56. The increase in value of \$1,144.86 is passive and thus, is divisible property subject to distribution by this Court.
 - c. The marital/divisible value of the parties' joint Guidestone Investment Account (#1365) is \$47,224.56.
73. As of the date of separation, Wife owned a Vanguard Individual Brokerage Account (#5909).
- a. After considering the evidence presented, the Court finds that Wife's Vanguard Individual Brokerage Account (#5909) is marital property subject to distribution by the Court.
 - b. Vanguard Individual Brokerage Account (#5909) had a date of separation value of \$22,174.95 and had a date of trial value of \$72,850.73.
 - c. On September 9, 2019, Wife deposited \$45,000.00 from Peoples Bank Checking Account (#5482). The increase of \$45,000.00 is active and thus, is not divisible property subject to distribution by this Court.
 - d. In March of 2020, Wife deposited \$5,000 into this account. The increase of \$5,000.00 is active and thus, is not divisible property subject to distribution by this Court.
 - e. The total principal in the Vanguard Individual Brokerage Account (#5909), as of June 30, 2020, was \$72,850.73, which including the date of separation values and post-date of separation deposits referenced above.
 - f. The increase of value of \$675.78 is passive and thus, is divisible property subject to distribution by this Court.
 - g. The marital/divisible value of Wife's Vanguard Individual Brokerage Account (#5909) is \$22,850.73.

Retirement Accounts

74. As of the date of separation, Husband owned a 401(k) Prudential Plan.
- a. After considering the evidence presented, the Court finds that Husband's Vanguard 401(k) Prudential Plan is marital property subject to distribution by the Court.
 - b. Husband's 401(k) Prudential Plan which had a date of separation value of \$95,867.32 and had a date of trial value of \$97,619.48. The increase in value of \$1,752.16 is passive and thus, is divisible property subject to distribution by this Court.
 - c.

- d. The marital/divisible value of Husband's 401(k) Prudential Plan is \$97,619.48.
75. As of the date of separation, Husband owned a Guidestone IRA Account (#1860).
- a. After considering the evidence presented, the Court finds that Husband's Guidestone IRA Account (#1860) is marital property subject to distribution by the Court.
- b. Husband's Guidestone IRA Account (#1860) had a date of separation value of \$4,775.89 and had a date of trial value of \$4,841.69. The increase in value of \$65.80 is passive and thus, is divisible property subject to distribution by this Court.
- c. The marital/divisible value of Husband's Guidestone IRA Account (#1860) is \$4,841.69.
76. As of the date of separation, Husband owned a Guidestone Roth IRA Account (#1917).
- a. After considering the evidence presented, the Court finds that Husband's Guidestone Roth IRA Account (#1917) is marital property subject to distribution by the Court.
- b. Husband's Guidestone Roth IRA Account (#1917) had a date of separation value of \$8,676.44 and had a date of trial value of \$8,875.25. The increase in value of \$198.81 is passive and thus, is divisible property subject to distribution by this Court.
- c. The marital/divisible value of Husband's Guidestone Roth IRA Account (#1917) is \$8,875.25.
77. As of the date of separation, Wife owned an Atrium 401(k) Plan.
- a. After considering the evidence presented, the Court finds that Wife's Atrium 401(k) Plan is marital property subject to distribution by the Court.
- b. Wife's Atrium 401(k) Plan had a date of separation value of \$337,701.78 and had a date of trial value of \$294,214.71. The amount of decrease in value of (\$43,487.07) is passive and thus, is divisible property subject to distribution by this Court.
- c. The marital/divisible value of Wife's Atrium 401(k) Plan is \$294,214.71.
78. As of the date of separation, Wife owned an Atrium Pension Plan.
- a. After considering the evidence presented, the Court finds that Wife's Atrium Pension Plan is marital property subject to distribution by the Court.

- b. Wife's Atrium Pension Plan had a date of separation value of \$72,193.78.
 - c. On March 31, 2020, the Atrium Pension Plan vested balance was \$80,979.92.
 - d. On May 1, 2020, Wife opted to take a lump sum payout in the amount of \$80,995.23.
 - e. The increase in value of in the amount of \$8,801.45 is passive and thus, is divisible property subject to distribution by this Court.
 - f. The marital/divisible value of Wife's Atrium Pension Plan is \$80,995.23.
79. As of the date of separation, Husband owned a Fidelity 403(b) Account.
- a. After considering the evidence presented, this Court finds that Husband's Fidelity 403(b) Account is Husband's separate property and is not subject to distribution by the Court.
 - b. Husband's Fidelity 403(b) Account had a date of separation value of \$340,000.00.
 - c. Wife did not have any additional information with respect to this account, therefore, the Court could not determine a date of trial value of the same.
80. As of the date of separation, Wife owned a Vanguard Rollover IRA Account (#6909).
- a. After considering the evidence presented, this Court finds that Wife's Vanguard Rollover IRA Account (#6909) is Wife's separate property and is not subject to the distribution of this Court.
 - b. Wife's Vanguard Rollover IRA Account (#6909) had a date of separation value of \$54,074.61 and had a date of trial value of \$56,942.35.

Debts

81. As of the date of separation, Wife was the debtor on a Toyota Credit Card Account (#5263).
- a. After considering the evidence presented, the Court finds that the Toyota Credit Card Account (#5263) is marital debt, subject to the distribution by the Court.
 - b. Wife's Toyota Credit Card Account (#5263) had a date of separation balance of (\$6,228.21).
 - c. Since the date of separation, Wife has actively paid this credit card down, however, this is not being credited to Wife.

82. As of the date of separation, Wife was the debtor on a CapitalOne Credit Card Account (#4720).
- a. After considering the evidence presented, the Court finds that the CapitalOne Credit Card Account (#4720) marital debt, subject to the distribution by the Court.
 - b. Wife's CapitalOne Credit Card Account (#4720) had a date of separation balance of (\$5,491.73).
 - c. Since the date of separation, Wife has actively paid this credit card down, however, this is not being credited to Wife.
83. As of the date of separation, Husband was the debtor on a CapitalOne Credit Card Account (#3127).
- a. After considering the evidence presented, the Court finds that the CapitalOne Credit Card Account (#3127) marital debt, subject to the distribution by the Court.
 - b. Husband's CapitalOne Credit Card Account (#3127) had a date of separation balance of (\$2,004.74). Wife does not have any additional information with respect to this account.

Based on the foregoing **FINDINGS OF FACT**, this Court draws the following **CONCLUSIONS OF LAW**:

1. This Court has jurisdiction over the parties' and the subject matter of this action, and this matter is properly before this Court.
2. Venue is proper in Mecklenburg County, North Carolina.
3. The parties' are entitled to an equitable distribution of marital and divisible property and debts.
4. Based upon the evidence presented and in consideration of the distributive factors set forth in N.C.G.S. §50-20(c)(1-12) *et seq.*, an unequal distribution of the parties' marital/divisible estate in favor of Wife is equitable in this case.
5. This Order constitutes a complete satisfaction of all claims of in this matter to an unequal distribution property under Chapter 50 of the North Carolina General Statutes, and all other claims that may exist concerning the property and debt of the parties'.
6. Any findings of Fact which would also be appropriate as a conclusion of Law is incorporated herein by reference.

Based on the foregoing **FINDINGS OF FACT** and **CONSLUSIONS OF LAW**, it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:

Real Property

1. **10005 Janerio Drive**. Wife is hereby be distributed the Former Marital Residence at a fair market value of \$73,708.78. Upon entry of this Order, this Court shall have the authority to execute and enter an Order pursuant to Rule 70, transferring title of the Former Marital Residence into Wife's sole name without the joinder of Husband.

Vehicles

2. **Husband's 1999 Toyota Tacoma**. Wife is hereby distributed the 1991 Toyota Tacoma at a value of \$3,000.00.
 - a. Upon entry of this Order, this Court shall have the authority to execute and enter an Order pursuant to Rule 70, transferring the title of the 1999 Toyota Tacoma into Wife's sole name without the joinder of Husband.
 - b. This Order directs the North Carolina Department of Vehicles to follow any directives of Wife, with respect to transferring the title of Husband's 1999 Toyota Tacoma into Wife's sole name without the joinder of Husband.
3. **Husband's 2005 Toyota Solara**. Husband is hereby distributed the 2005 Toyota Solara at a value of \$5,000.00.

Bank Accounts

4. **The Joint Peoples Bank Checking Account (#5482)**. Wife is hereby distributed the Peoples Bank Checking Account (#5482) at a value of \$65,804.62.
5. **The Joint Peoples Bank Checking Account (#6985)**. Wife is hereby distributed the Peoples Bank Checking Account (#6958) at a value of \$30,412.68.
6. **The Joint Peoples Bank Savings Account (#2595)**. Wife is hereby distributed the Peoples Bank Savings Account (#2595), which is closed, at a value of \$784.98.
7. **Wife's Wells Fargo Bank Checking Account (#3180)**. Wife is hereby distributed the Wells Fargo Bank Checking Account (#3180) at a value of \$1,547.81.
8. **Wife's Bank of America Health Savings Account**. Wife is hereby distributed the Bank of America Health Savings Account at a value of \$5,255.15.

Investments Accounts

9. **The Joint Vanguard Brokerage Account (#9221)**. Wife is hereby distributed the Vanguard Brokerage Account (#9221) at a value of \$43,806.76.

10. **The Joint Guidestone Investment Account (#1365)**. Wife is hereby distributed the Guidestone Investment Account (#1365) at a value of \$47,224.56.
11. **Wife's Vanguard Individual Brokerage Account (#5909)**. Wife is hereby distributed the Vanguard Individual Brokerage Account (#5909) at a value of \$22,850.73.

Retirement Accounts

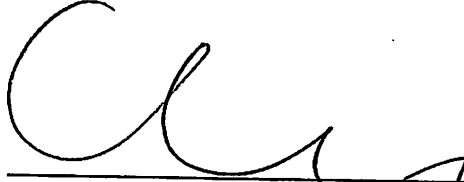
12. **Husband's 401(k) Prudential Plan**. Wife is hereby distributed the funds in Husband's Vanguard 401(k) Prudential Plan pursuant to a Qualified Domestic Relations Order, at a value of \$97,619.48.
 - a. This Order directs Prudential to follow any and all directives of Wife without the joinder of Husband. Further, this Order directs Prudential to provide Counsel for Wife with any and all documents necessary for drafting of the Qualified Domestic Relations Order directing the transfer of funds in in Husband's 401(k) Prudential Plan to Wife.
13. **Husband's Guidestone IRA Account (#1860)**. Husband is hereby distributed the Guidestone IRA Account (#1860) at a value of \$4,841.69.
14. **Husband's Guidestone Roth IRA Account (#1917)**. Husband is hereby distributed the Guidestone Roth IRA Account (#1917) at a value of \$8,875.25.
15. **Wife's Atrium 401(k) Plan**. Wife is hereby distributed the Atrium 401(k) Plan at a value of \$294,214.71.
16. **Wife's Atrium Pension Plan**. Wife is hereby distributed the Atrium Pension Plan at a value of \$80,995.23.

Debts

17. **Toyota Credit Card Account (#5263)**. Wife is hereby distributed the Toyota Credit Card Account (#5263) debt in the amount of (\$6,228.21).
18. **CapitalOne Credit Card Account (#4720)**. Wife is hereby distributed the CapitalOne Credit Card Account (#4720) debt in the amount of (\$5,491.73).
19. **CapitalOne Credit Card Account (#3127)**. Husband is hereby distributed the CapitalOne Credit Card Account (#3127) debt in the amount of (\$2,004.74).
20. The transfers of property from Husband to Wife as set forth herein will be nontaxable, and shall be "Section 1041" Transfer if Property Between Spouses or incident to divorce (as set forth and defined in the Internal Revenue Code) property transfers and part of the resolution of all claims for equitable distribution of marital property.
21. This Order resolves all pending matters in this action for Equitable Distribution.

22. This Court shall retain jurisdiction of this cause of action for the entry of further orders as may be necessary.
23. This Order of the Court is enforceable by both the civil and criminal contempt powers of contempt of this Court.

This the 18 day of Su, 2020.



The Honorable Christy T. Mann
District Court Judge Presiding