

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR SAGINAW COUNTY
FAMILY COURT DIVISION

MELISSA JAYNE CALICE

Plaintiff

v

File No. 12-017215 DM 4
Hon. James T. Borchard

RICHARD ANTHONY CALICE JR.

Defendant

BURKHART, PICARD, TIDERINGTON &
McLEOD, PLLC
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RICHARD ANTHONY CALICE, JR
Defendant In Pro Per
10 Ringleaf Court
Cockeysville, Maryland 21030

OPINION AND ORDER

AT A SESSION OF THE CIRCUIT COURT HELD AT THE COURTHOUSE
IN THE CITY AND COUNTY OF SAGINAW, STATE OF MICHIGAN
THIS 30 DAY OF OCTOBER 2015

PRESENT: THE HONORABLE JAMES T. BORCHARD, CIRCUIT COURT JUDGE

This case comes before the Court on Plaintiff's Complaint for Divorce. The Court, having conducted a trial and after considering the testimony and evidence presented and the briefs of the parties, makes the following findings and conclusions:

BACKGROUND

Plaintiff-wife is Melissa Jayne Calice

Date of Birth: 12/01/1974

Defendant-husband is Richard Allen Calice Jr

Date of Birth 12/12/78

Date of Marriage: August 6, 2005

Date of Separation: August 2, 2012

Date of Filing: August 13, 2012

Date of Trial August 12, 2015

Minor Children of Marriage:

Rocco Jefferson Calice, d/o/b 10/27/2006

Amelia Jayne Calice, d/o/b 4/25/2008

ISSUES

The following issues were presented for determination:

Property Division

Retirement Plans

Spousal Support

Attorney Fees

BREAKDOWN OF THE MARRIAGE

Based upon the testimony of the parties, the Court finds that that there has been a breakdown of the marital relationship to the extent that the objects of matrimony have been destroyed and there remains no likelihood that the marriage can be preserved. The Court accordingly will grant Plaintiff-Melissa Jayne Calice, a divorce from Defendant-Richard Anthony Calice Jr.

CHILD SUPPORT AND CUSTODY

All issues regarding child custody and support have been resolved.

PROPERTY DIVISION

The distribution of property is controlled by statute, the goal being to reach an equitable division in light of the circumstances. Factors to be considered in determining the division of property include: (1) the duration of the marriage, (2) contributions if the parties to the marital estate, (3) age of the parties, (4) health of the parties, (5) life status of the parties, (6) necessities and circumstances of the parties, (7) earning abilities of the parties, (8) past relations and conduct of the parties, and (9) general principles of equity. Other factors pertinent to the facts and circumstances the case may also be considered, including fault or misconduct. The Court must consider all relevant factors and may not assign disproportionate weight to any one circumstance.

At the conclusion of the trial proceedings of August 12th the Court requested the parties to file an Asset/Liability and Proposed Property Division statement, review of which indicates that the parties essentially are amenable to a 50/50 split of the assets and liabilities. The Court finds the evidence and testimony presented supports such a division and further attributes no fault to either party for the breakdown of the marriage.

AWARD OF PROPERTY

PERSONAL PROPERTY

IT IS ORDERED that each party is awarded all personal property in their respective possession free and clear of any claim of the other, and that each party shall assume any outstanding indebtedness associated therewith and hold the other harmless therefrom. Defendant is directed to return to Plaintiff any items of personal property previously ordered and identified by exhibit.

REAL PROPERTY

The testimony having established that the only real property of the parties, located at 620 Catalpa Royal Oak, Michigan, has been foreclosed upon, that the redemption period has expired, and that said property is of no value, IT IS ORDERED that any liability, if any, is to be split 50/50.

VEHICLES

The testimony having established that the parties presently each own their own vehicle and that said vehicles have minimal or no outstanding debt, IT IS ORDERED that each party keep their respective vehicle and be responsible for any debt thereon.

IOLTA, MORGAN STANLEY ACCOUNT AND FIDELITY 401(k)

IT IS ORDERED that Plaintiff wife is entitled to the sum of \$6,081.82 representing $\frac{1}{2}$ the \$12,163.64 balance presently in the Iolita Account. The testimony having further established that defendant, in violation of the Temporary Restraining Order, withdrew all sums contained in the Morgan Stanley Investment Account, IT IS ORDERED that Plaintiff is entitled to the sum of \$7,120.94 representing $\frac{1}{2}$ of the moneys withdrawn. IT IS FURTHER ORDERED that Plaintiff wife is awarded $\frac{1}{2}$ of the Fidelity 401(k) Plan, the balance of which for purposes of division is determined to be \$68,866.47.

SECURITY DEPOSIT

IT IS HEREBY ORDERED that the security deposit refund of \$2,475.00 be divided equally between the parties.

LIABILITIES

IT IS HEREBY ORDERED that Plaintiff wife is responsible for her student loans and that Defendant husband is responsible for his individual tax liability.

ALIMONY

The court finds that Defendant husband presently owes unpaid Spousal Support for the period from June 2014 through August 2015 totaling \$8,010.00. IT IS FURTHER ORDERED that no temporary or permanent alimony/spousal support is awarded and that none is reserved.

MISCELANEOUS

Plaintiff wife's request for reimbursement of out-of-pocket expenses of \$1,497.00 attributable to a trip to Maryland to retrieve personal property is denied. IT IS ORDERED that each party be responsible for their own attorney fees and associated costs.

PAYMENT TO PLAINTIFF WIFE

The total amount owed to Plaintiff wife for back alimony, her share of the Iolta Account, Morgan Stanley Investment Account, and Fidelity 401(k) Plan is \$55,646.00. The Court finds that satisfaction of Plaintiff's interest should first come from available cash funds and accordingly awards her the entire Iolta Account and any sums, if any, remaining in the Morgan Stanley Investment Account. If the monies obtained from liquidation of the aforementioned accounts are insufficient to satisfy the back alimony and Plaintiff's share of the Iolta and Morgan Stanley Accounts, the remaining amount shall be added to Plaintiff's ½ share of the Fidelity 401(k) Plan and that assignment of her interest in this Plan is to be accomplished pursuant to a Qualified Domestic Relations Order.

Plaintiff must promptly prepare a Judgment of Divorce consistent with this opinion to be submitted within 21 days of this Order along with payment for required court fees. The Judgment must contain all provisions required by statute or court rule.

IT IS SO ORDERED

James T. Borchard
P27015

James T. Borchard, Circuit Judge

 A TRUE COPY
SUSAN KALTENBACH, CLERK