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IN THE SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT
STATE OF GEORGIA

MARJORIE MITCHELL,

Plaintiff,

v.

ELVIN R. MITCHELL, JR. (A/K/A E.R.
MITCHELL, JR.) CYNTHIA MITCHELL,
RUTH MITCHELL, EC & WT
CONSTRUCTION CO D/B/A ER
MITCHELL CONSTRUCTION CO, INC., ER
MITCHELL & CO, ER MITCHELL
COMPANY, LLC, and WESTWOOD
CONSTRUCTION, LLC,

Respondents.

CIVIL ACTION FILE
NO. 2017CV285661

JUDGE BRASHER
FAMILY DIVISION

FINAL JUDGMENT AND DECREE OF DIVORCE

The above-styled case came before the Court for a bench trial on Jun 18, 2018, and all parties were represented by counsel. Upon consideration of all of the evidence and argument presented, the Court finds as follows as to the issues of divorce and equitable division of the marital estate:¹

DIVORCE

Petitioner and Respondent are hereby granted a total and complete divorce and their marriage dissolved *instante*, that is to say, a divorce *a vinculo matrimonii*. The parties shall continue to live separate and apart, each being free to choose his or her place of residence and employment, and each shall be free from interference, molestation, authority and control, direct or indirect, by the other as fully as if sole and unmarried to each other.

¹ The Court addresses the issue of Plaintiff's claim against third-party Defendants via separate order.

The Court specifically finds Plaintiff is entitled to a divorce upon the grounds of (1) adultery, (2) conviction for an offense involving moral turpitude, under which he is sentenced to imprisonment in a penal institution for a term of two years or longer, and (3) the marriage is irretrievably broken. *See* O.C.G.A. § 19-5-3 (6), (8), (12).

EQUITABLE DIVISION

Upon consideration of the equities, including the conduct of the parties, the length of the marriage, and the current circumstances of the parties, the Court equitably divides the marital assets of the estate as follows:²

Marjorie Mitchell is awarded and shall retain for her exclusive use and possession the following property, subject to any and all encumbrances thereon:

- (1) all funds located within any and all bank accounts that are titled in her name, including any and all retirement assets and accounts, except for such funds as are specifically awarded to ER Mitchell, as set forth below,
- (2) the proceeds of the sale of the real property located at 3897 Artist View, DeKalb County, Decatur, GA 30034,
- (3) all funds located within in any and all bank accounts that are titled to any business entity that is part of the martial estate, including, but not to be limited to E.R. Mitchell Company, LLC, Cascade Building Systems, LLC, E.R. Mitchell and Company, LLC, and Jamco Civil, LLC.
- (4) The cash value of all life insurance policies held by E.R. Mitchell on the life of Marjorie Mitchell.

² As provided in this Court's final order as to the claim against the Third Party Defendants, this Court does not find that E.R. Mitchell Construction Co, Inc., or any of its assets, are property of the marital estate or subject to equitable division.

- (5) the parties' vehicles – specifically the Toyota Sequoia and Toyota Silverado.
- (6) The real property located at 1311 Desoto Falls Court, Fulton County, Atlanta, Georgia 30311.
- (7) The time share located at Vistiana.
- (8) The contents, including furniture, of the homes at both Desoto Falls Court and Hilton Head, SC.

E. R. Mitchell is awarded and shall retain for his exclusive use and possession the following property, subject to any and all encumbrances thereon:

(1) the real property located at 2875 Donald Lee Hollowell Parkway NW, Atlanta, Georgia 30318, including any and all rental proceeds collected therefrom;

(2) all ownership right in any company or business affiliated with ER Mitchell, Jr., including, but not limited to, include E.R. Mitchell Company, LLC, Jameco Civil, LLC, and Cascade Building Systems, LLC.

(3) all ownership right in any time share owned by the parties other than the Vistiana time share.

(4) the retirement funds held by Lincoln Financial;

(5) the \$23,000 that was subject to this Court's constructive trust order of December 15, 2017.

(6) A lump sum property division of \$75,000 payable as follows: Marjorie Mitchell shall pay directly to E R Mitchell \$25,000 on July 1, 2020; July 1, 2021; and July 1, 2022.

To effectuate this property division, ER Mitchell is DIRECTED to, as soon as is reasonably practicable, return any and all personal assets he removed from either the Desoto Falls Court or Hilton Head residences to Marjorie Mitchell. Mr. Mitchell is FURTHER

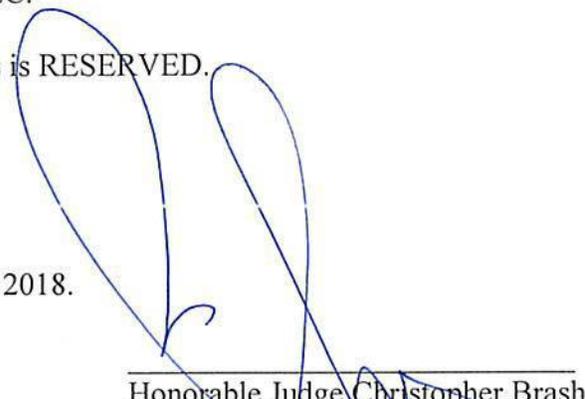
DIRECTED to, as soon as is reasonably practicable, dissolve any and all life insurance policies that he holds on the life of Marjorie Mitchell.

Both parties are DIRECTED to cooperate and facilitate any and all efforts to (1) remove the name of the ER Mitchell from the ER Mitchell and Marjorie Mitchell Charitable Remainder Trust, (2) remove the name of Marjorie Mitchell from any and all corporations held in the martial estate, including, but not limited to, E.R. Mitchell Company, LLC, Jamco Civil, LLC, and Cascade Building Systems, LLC.

The issue of attorney's fees is RESERVED.

SO, ORDERED.

This 17th day of July, 2018.



Honorable Judge Christopher Brasher
Superior Court of Fulton County