

PUTNAM COUNTY
CLERK

2015 JAN 23 PM 1:30

At an IAS Part of the Supreme Court of the State of New York, held in and for the County of Putnam located at 20 County Center, Carmel, New York 10512 on the 21 day of January, 2015.

PRESENT:
HON. JAMES F. REITZ, A.J.S.C.

-----X
LORI COMILLONI,

Plaintiff,

-against-

Index No.: 2407/2011

JUDGMENT OF DIVORCE

DONALD A. COMILLONI, JR.,

Defendant.
-----X

EACH PARTY HAS A RIGHT TO SEEK A MODIFICATION OF THE CHILD SUPPORT ORDER UPON A SHOWING OF: (I) A SUBSTANTIAL CHANGE IN CIRCUMSTANCES; OR (II) THAT THREE YEARS HAVE PASSED SINCE THE ORDER WAS ENTERED, LAST MODIFIED OR ADJUSTED; OR (III) THERE HAS BEEN A CHANGE IN EITHER PARTY'S GROSS INCOME BY FIFTEEN PERCENT OR MORE SINCE THE ORDER WAS ENTERED, LAST MODIFIED OR ADJUSTED; HOWEVER, IF THE PARTIES HAVE SPECIFICALLY OPTED OUT OF SUBPARAGRAPH (II) OR (III) OF THIS PARAGRAPH IN A VALIDLY EXECUTED AGREEMENT OR STIPULATION, THEN THAT BASIS TO SEEK MODIFICATION DOES NOT APPLY.

This action was submitted to the Court on the ^{21st} ~~8th~~ day of January, 2015 for consideration for a judgment of absolute divorce by reason of the irretrievable breakdown of the marriage pursuant to Domestic Relations Law §170(7). JFR
AJSC

On or about July 28, 2011 Plaintiff, through her attorney, commenced an action for divorce against Defendant by purchase of an index number under the caption **LORI COMILLONI, Plaintiff v. DONALD A. COMILLONI, JR., Defendant** bearing Index No. 2407/2011. Said grounds were unconsented to by Defendant, and the parties having entered into a Stipulation of Settlement, the Defendant has waived his right to answer and consented to allow

the Plaintiff to proceed on the uncontested calendar for absolute divorce by reason of irretrievable breakdown of the marriage pursuant to Domestic Relations Law Section 170(7).

Defendant consents to the entry of a Judgment based upon Article SEVEN contained in the parties' Stipulation of Settlement executed on November 25, 2014 resolving equitable distribution and all other ancillary issues of the marriage.

The Court accepted written proof of non-military status.

The Plaintiff's address is 401 Gage Road, Brewster, New York 10509 and her social security number is xxx-xx-3259. The Defendant's address is 11 Inwood Place, Patterson, New York 12563 and his social security number is xxx-xx-9232.

NOW, on motion of TIMOTHY J. CURTISS, ESQ., it is hereby:

ORDERED, ADJUDGED AND DECREED that the marriage between LORI COMILLONI, Plaintiff, Social Security Number xxx-xx-3259 and DONALD A. COMILLONI, JR., Defendant Social Security Number xxx-xx-9232, is hereby dissolved by reason of the irretrievable breakdown of the marriage pursuant to DRL Section 170(7); and it is further

ORDERED AND ADJUDGED that there are no court orders with regard to maintenance to be continued; and it is further

ORDERED AND ADJUDGED that there are no minor children of the marriage; and it is further

ORDERED AND ADJUDGED that the Defendant will pay the Plaintiff the sum of \$500.00 per month maintenance for a period of five (5) years; and it is further

ORDERED AND ADJUDGED that Plaintiff and Defendant have divided their personal property and agree to possession and transfer of such items in Article SIXTEEN (B) and SIXTEEN (C) contained in the parties' Stipulation of Settlement executed on November 25,

2014; and it is further

ORDERED AND ADJUDGED, that the parties shall equally share the value of the Oppenheimer Funds; and it is further

ORDERED AND ADJUDGED that Defendant shall reinstate the 1st United America Life Insurance Policy with a benefit of \$35,000.00 and the Plaintiff shall remain the beneficiary thereof, until such time as the Defendant repays the Plaintiff the sum of \$108,000.00 as described in Article NINETEEN (A)(2); and it is further

ORDERED AND ADJUDGED that the Defendant shall pay Plaintiff the sum of \$2,050.00 for reimbursement of one payment of the mortgage on the Sunrise property; and it is further

ORDERED AND ADJUDGED that the marital portion of any deferred compensation plans presently held by the parties shall be divided pursuant to the ~~Majoukas Formula~~ ^{Majauskas Formula}; and finally

JFR
AJSC

IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff may resume her maiden name or any other surname of **UDICE**.

ORDERED AND ADJUDGED that Defendant shall be served with a copy of this Judgment, with Notice of Entry, by the Plaintiff, within 20 days of such entry.

Dated: Carmel, New York
January 21 2015

ENTER:

James F. Reitz
HON. JAMES F. REITZ
SUPREME COURT JUDGE
Acting

SETTLEMENT AGREEMENT

THIS AGREEMENT, made November 25th, 2014 between LORI COMILLONI, referred to in this Agreement as the "Wife", and DONALD COMILLONI, referred to in this agreement as the "Husband".

PREMISES:

WHEREAS, the parties were married on July 3, 1990 in New York, New York, in a civil ceremony; and

WHEREAS, there are no minor children of the marriage, and none are expected; and

WHEREAS, the parties desire to live separate and apart from one another; and

WHEREAS, the parties wish to enter into a comprehensive settlement agreement which will equitably settle their marital and financial rights and obligations in all respects; and

WHEREAS, each party has been fully advised with respect to the legal, financial, and practical effect of this agreement by their respective counsel; and

WHEREAS, the parties understand that instead of entering into this agreement they have a right to proceed with litigation and to seek a judicial determination of the issues covered by this agreement but, notwithstanding such right, the parties desire to avoid the delay, expense, and risk of litigation and they believe that their interests will be better served by the terms and provisions of this agreement;

WHEREAS, each Party has been fully, separately and independently advised of his or her legal rights, remedies, privileges and obligations arising out of the Parties' marital relationship or otherwise, by independent counsel of his or her own choosing, and each having been informed to his or her satisfaction of the other's assets, property, holdings, income, expenses and liabilities;

incurred for Allstate Landscaping and/or Putnam Lake Garden Center. So long as the Wife's credit cards are being used to pay expenses for Allstate Landscaping and/or Putnam Lake Garden Center, the Wife shall have access to the financial and banking, credit card and vendor records of Putnam Lake Garden Center and Allstate Landscaping. The Husband shall be allowed to use the Wife's credit cards to pay the expenses for Allstate Landscaping and/or Putnam Garden Center until May 1, 2015, at which time the Husband shall be responsible for such credit card debt incurred by Allstate Landscaping and/or Putnam Garden Center unless such debt is discharged in bankruptcy.

ARTICLE NINETEEN: PROPERTY SETTLEMENT

1. The Husband and Wife acknowledge and certify that they have entered into this Agreement freely and voluntarily; that they agree that the distribution of their property hereunder is fair and reasonable; and that they have been made aware of the factors a court must consider in making an equitable distribution of their marital property in accordance with the provisions of § 236(B)(5)(d) of the Domestic Relations Law, which factors are as follows:

- a. the income and property of each Party at the time of marriage, and at the time of the commencement of the action;
- b. the duration of the marriage and the age and health of both Husband and Wife;
- c. the need of a custodial parent to occupy or own the marital residence and to use or own its household effects;
- d. the loss of inheritance and pension rights upon dissolution of the marriage as of the date of dissolution;
- e. the loss of health insurance benefits upon dissolution of the marriage;
- f. any award of maintenance under Domestic Relations Law § 236(B)(6);

g. any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the Party not having title, including joint efforts or expenditures and contributions and services as spouse, parent, wage earner and homemaker, and to the career or career potential of the other Party;

h. the liquid or non-liquid character of all marital property;

i. the probable future financial circumstances of each Party;

j. the impossibility or difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest intact and free from any claim or interference by the other Party;

k. the tax consequences to each Party;

l. the wasteful dissipation of assets by either spouse;

m. any transfer or encumbrance made in contemplation of a matrimonial action without fair consideration; and

n. any other factor which the court shall expressly find to be just and proper.

A. Real Property

1. The parties acknowledge that they currently own as tenants by the entirety the real property known as 452 Rolling Hill Road, Surprise, New York (hereinafter the "Surprise Property"). The Surprise Property is currently encumbered by a first mortgage held by Wells Fargo with a principal balance of approximately \$ 186,000.00. The parties specifically acknowledge that they can no longer pay the mortgage and expenses of the Surprise Property.

The Parties shall mutually select a qualified broker for the sale of Surprise. The Parties agree to list the property at \$235,000. If the Parties receive no offers for the purchase of the Residence within a reasonable time, then they shall reduce the sale price as they may agree, or as recommended by the listing broker.

The Parties shall mutually agree upon a reasonable purchase offer; provided, however, that the purchase offer is reasonably based on prevailing market rates. The Parties shall each in good faith cooperate with the sale of the Residence, including but not limited to executing a Listing Agreement and executing a contract of sale with a purchaser. Each shall comply with the terms of any contract of sale for the sale of the Residence, including but not limited to timely vacating the Residence and attending any closings. Upon the sale of the Residence the parties shall equally share the Net Proceeds, if any, as defined herein. The Husband has the option to pay his share of net Proceeds to the Wife to reduce his obligation to the Wife in the sum of \$108,000, as further provided herein, on a dollar for dollar basis. "Net Proceeds" as used herein shall mean the gross receipts derived from the sale, less the "Expenses of Sale." "Expenses of sale" shall mean the cost of satisfying the First Mortgage; all transfer taxes and title company fees chargeable to the seller; any brokers' commissions; all maintenance and repair expenses agreed to by both Parties in order to place the premises in a saleable condition and which may be required as a condition of the contract, the attorney's fee for one attorney to represent the Parties in connection with the sale of the Residence and other usual and customary expenses incidental to the sale of the Residence and closing of title, including but not limited to transfer taxes, filing fees and placing the property in broom clean condition.

The parties agree that they intend to continue to own the property as tenants in common with a right of survivorship until the sale of the property or loss through foreclosure.

2. The parties acknowledge that they currently own a parcel of real property known as 36 Danbury Road, Patterson, New York, which is currently encumbered by a first mortgage held by Mahopac National Bank with a principal balance of approximately \$ 120,000.00. 36 Danbury Road is currently held in the name of L & D Timeless Blooms LLC a limited liability company owned by the Wife. The Husband shall pay all expenses associated with 36 Danbury

Road including but not limited to the mortgage, taxes, insurance, utilities, maintenance and repairs, and hereby indemnifies and holds the Wife harmless therefor.

In exchange for the payment of \$108,000, as hereinafter described, the Wife shall sign a Bargain and Sale Deed with Covenants against Grantor's Acts and all other appropriate recording documents, including transfer tax and Equalization and Assessment forms necessary to affect a transfer of title to 36 Danbury Road to the Husband or other corporation or entity as he may designate; such transfer shall take place at the time the Husband refinances the mortgage to remove the Wife's name from liability for the existing mortgage or at such time as the \$108,000 is paid in full, and the Wife specifically agrees to sign any and all documents necessary to effect such refinance.

The Husband shall pay to the Wife the sum of \$108,000 as a full and final property settlement and distributive award, which shall be paid at the rate of \$750 per month, commencing in the first month following the signing of this Agreement and continuing thereafter until such sum is paid. The Husband, at his option, may reduce the obligation by paying over to the Wife such sums from the Net Proceeds of sale of the Surprise Property or such other lump sum payment. The parties specifically agree that the Wife shall have a claim against the Husband's Estate for whatever portion of the \$108,000, if any, which remains unpaid at the time of the Husband's death.¹

The parties represent each to the other that neither has placed, caused to be placed or suffered any liens or encumbrances of any kind to be placed on either 36 Danbury Road or the Surprise Property. If such lien or encumbrance is or has been placed, suffered or caused to be placed on or against title to either property by either party, then that party shall cause same to be satisfied or bonded at his/her sole cost and expense within sixty (60) days from receipt of a notice to that effect from the other and each hereby indemnifies and holds the other harmless

and accounting fees incurred in conjunction with same. Each party shall cooperate fully with the other in the event of an audit or examination of the such joint income tax returns and shall furnish to the party being audited or his or her designated agents, such information or documentation as may be reasonably required with respect to such audit or examination.

In the event and to the extent that additional tax liabilities, interest, and/or penalties are levied without fault attributable to either party, such liability shall be equally paid by the parties, including the costs and expenses, including the expenses for counsel and accountants, of the audit, examination, suit or other proceeding.

Each party shall cooperate fully and shall handle together with the other any audit or examination of such joint income tax returns and shall furnish to the party being audited or his or her designated agents, such information or documentation as may be reasonably required with respect to such audit or examination.

If the parties are entitled to a tax refund or credit with respect to 2013/2014 tax returns, the same shall be equally divided between the parties. If, with respect to the 2013 and 2014 tax returns, the parties have tax liability unrelated to the Husband's failure to pay quarterly tax payments, then the parties shall share such liability equally. If such liability is based solely on the Husband's failure to pay quarterly tax payments, then such liability shall be borne solely by the Husband and he hereby indemnifies and holds the Wife harmless therefor.

ARTICLE TWENTY-ONE: BANKRUPTCY

The parties have consented to the terms of this Agreement upon their reliance on the express representations made to each other that all of its terms, particularly those with respect to the maintenance, child support, payments of debts, property division, and distributive award, or any other transfers or payments to implement equitable distribution, shall be fully paid and completed in accordance with such terms and provisions.

It is the intention of the parties that the obligations for payment of debts, property division, and distributive award, or any other transfers or payments to implement equitable distribution, which are to be made pursuant to the terms and provisions of this agreement, shall not be discharged, canceled, terminated, diminished or in any way affected by the filing of a petition in bankruptcy, or by the making of an assignment for the benefit of creditors. Accordingly, in the event that the either party files a petition in bankruptcy or makes an assignment for the benefit of creditors, all transfers or payments provided for in this agreement are intended to be maintenance or child support. The party who files such petition in bankruptcy or makes such assignment for the benefit of creditors shall be liable for any resulting tax consequences.

To the extent that any obligation arising under this Agreement may be discharged, cancelled, terminated, diminished or in any way affected by the filing of a petition in bankruptcy, or by the making of an assignment for the benefit of creditors, the party adversely affected by such action shall be entitled to apply to any court of competent and appropriate jurisdiction for the modification of this Agreement and any order or decree into which it may hereafter be incorporated. The party who files such petition in bankruptcy or who makes an assignment for the benefit of creditors hereby consents that in any proceeding brought by the other party pursuant to this provision, the Court hearing the same may grant economic relief of any kind or nature to relieve the other party of the adverse impact of the bankruptcy or assignment, irrespective of the otherwise applicable standards for such relief, including, but not limited to, the granting of maintenance to a party who would otherwise not qualify for such relief under the criteria of the particular jurisdiction.

ARTICLE TWENTY-TWO: PENALTIES ON DEFAULT

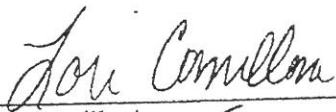
In the event that either party defaults with respect to any obligation set forth in this

agreement, the injured party shall send written notice, by certified mail, return receipt requested, to the defaulting party, which notice shall specify the nature of the default and, if relevant, any amount due which remains unpaid. If the payment is not made, or the default otherwise cured, within 15 days of receipt of said notice, and the injured party incurs attorney's fees and related expenses or costs in commencing and maintaining an action or proceeding to enforce this agreement, the defaulting party shall pay all such fees and costs.

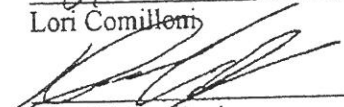
In the event either party is forced to seek the aid of counsel in enforcing any rights pursuant to this Agreement, except to pursue entry of judgment of divorce, and in the event that said party is successful in enforcing such right(s) by Agreement without the necessity of the commencement of an action or proceeding, the other party shall reimburse him or her for any attorneys fees necessarily incurred in enforcing such rights. Similarly, in the event one party seeks to enforce a right against the other and the other is called upon to seek counsel in defending his or her position, and in the event such defending party is successful in such defense, either by Agreement or in a hearing, the successful defending party shall be entitled to reimbursement from the other for his or her counsel fees necessarily expended. The parties agree that the purpose of this paragraph is to prevent unnecessary litigation between them and to encourage each to fulfill his or her responsibilities under the terms of this Agreement, as fully as possible.

IN WITNESS WHEREOF, the parties hereto, having read each and every word of this agreement, together with any and all attachments, and believing this agreement to be fair and reasonable in all respects, have duly signed, executed and acknowledged this agreement in four

counterparts, each of which shall constitute a duplicate original, on the date reflected by the respective acknowledgements of the parties.



Lori Comillon



Donald Comiloni

