

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

JACQUELINE A. CICARDO,
Plaintiff

vs.

WILLIAM A. CICARDO,
Defendant

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No. 20-0698

Barry C. Shabbick, Esquire
Brian J. Cali, Esquire

Counsel for Plaintiff
Counsel for Defendant

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AUG 23 11:11 AM '22
CARBON COUNTY
PROthonOTARY

MEMORANDUM OPINION

Matika, J. - August 23, 2022

On May 31, 2022, the Appellant/Plaintiff, Jacqueline A. Cicardo (hereinafter "Plaintiff" or "Wife") filed an appeal to the Pennsylvania Superior Court claiming that the Court erred when it issued its May 6, 2022 Order of Equitable Distribution in her Divorce action. For the reasons stated herein, this Court seeks affirmance of that decision from the Appellate Court.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff commenced this divorce action on April 22, 2020 with the filing of a divorce complaint against the Defendant, William A. Cicardo (hereinafter "Defendant" or "Husband"). This divorce complaint included counts for equitable distribution, alimony pendente lite, counsel fees, costs and expenses and post-divorce alimony. Ultimately, a hearing was held on May 25, 2021

before the Hearing Officer, Eileen Diehl, Esquire. Husband, *Pro Se* at the time, failed to show for that hearing.¹ The Hearing Officer issued a report and recommendation on July 23, 2021. As part of that report and recommendation, she suggested that *inter alia*, Wife should receive 70% of Husband's pension² as well as

¹ Defendant's attorney withdrew from representation on May 13, 2021. Defendant failed to appear or to participate in the Hearing Officer's hearing, however it is specifically noted that Wife verified on the record that she observed that Husband was posting on Facebook at 8:20 A.M. while she was waiting in the courthouse hallway, just before the hearing commenced. It is also noted that Attorney Kelly filed his withdrawal of appearance/and entered Husband as *pro se* on May 13, 2021, a full twelve (12) days prior to the hearing. Furthermore, it is specifically noted that the Defendant filed a motion for continuance of the hearing on May 26, 2021, the day after the hearing. The motion for continuance was properly denied as moot having been received and docketed by the Prothonotary at 9:34 A.M., the next day.

² In support of her recommendation of Equitable Distribution, the Hearing Officer noted:

"EQUITABLE DISTRIBUTION FACTORS

The marriage, from the date of marriage to date of separation, is of just over 20 years' duration. This is the first marriage for both parties. There are no minor children. The parties' four (4) children range in ages from 19 to 31.

Wife is 60 years old. She is unemployed. She last worked in 2018 for a few months. She has no pension or retirement benefits of any nurture whatsoever. She was the primary caretaker of the parties' four (4) children during the marriage.

Her health is currently very poor. She suffers from migraine headaches, memory problems, hypoxia, back problems (which required compression surgery, fusion surgery and a laminectomy). She is under the care of a pain management specialist. She suffers from extensive arthritis, carpal tunnel syndrome in her shoulders and plantar fasciitis in her feet. She also has C.O.P.D. and uses an inhaler to breather. She is currently prescribed various medications, including Chantix, Fioricet, Gabapentin, Prozac, Ambien and Xanax. She receives Social Security Disability payments of \$1,279 per month before taxes. The sum of \$148.50 is taken out for her Medicare insurance premium each month. This is her only source of income.

Wife resides with Paul Roth. Although there is an alimony claim raised in the pleadings, her cohabitation negates her candidacy for alimony. Wife cannot afford to move out. She testified that she could not afford to proceed with the divorce any sooner than she did. She testified that she has nowhere to go and not enough money to live on her own. It is noted that Wife did not present testimony relative to alimony at the hearing, which the Hearing Officer takes as an acknowledgment as to the effect of her cohabitation on the alimony claim.

Wife testified that Husband retired at age 55 on October 2, 1998 and after electing the joint-survivor pension option, he began receiving his pension benefit from Teacher's Retirement System of the City of New York. Wife testified that upon retirement at 55, the Defendant's Husband spent most of his time lying around and watching T.V. Although their youngest child was born in 2002 after

attorney fees³ in the amount of \$3,579.80, payable to her by the Husband.

On August 20, 2021, Husband filed a "Motion for Leave to Extend Deadline" through Attorney Brian Cali who entered his appearance on June 14, 2021 after the hearing. In that motion, Husband was requesting the opportunity to file exceptions "Nunc Pro Tunc" claiming that he did timely mail to the Carbon County Prothonotary's Office, exceptions to the Hearing Officer's Report and Recommendation, however, Counsel learned after the twenty (20) days period that they were not received by the Prothonotary's Office and not returned to him.⁴ Plaintiff did not file an answer

Husband retired, Wife testified that he did not become a "hands on" parent, despite having the time available to do so. Wife was clearly the primary caretaker of the children during this marriage. Wife testified that Husband calculatngly chose to move out at age 62 ½, because at this specific age, his Social Security derivative benefit would pay the bulk of the child support he would have to owe Wife. Husband receives Social Security in the amount of \$1,600 per month. Wife did not testify as to any chronic health ailments of Husband. Husband is now 76 years old" (Report and Recommendation of Hearing Officer from May 25, 2021 hrg.)

What the Hearing Officer did not reference in her report was that the parties have four (4) children and at the time of the parties' separation in 2007 all four (4) children were minors. On or about April 12, 2007, Wife filed a Complaint in Support in Luzerne County. A Domestic Relations Order was in effect from 2007 through June 2020, when the last child was emancipated. The last guideline calculation was completed in 2009 when the parties agree to Defendant's net monthly income of \$3,338.00. This net monthly income is consistent with Husband's receipt of pension payments and Social Security, suggesting that his pension, which is the subject of equitable distribution was at least partially paid to Wife already.

³ The Hearing Officer also found that "Wife has expended approximately \$3,579.80 in attorney's fees, costs and expenses in this divorce action. This does not include the attorney fees she would have presumably subsequently incurred as a result of her attorney representing her at the hearing. Given the disparity in income of the parties, it is prudent to award Wife counsel fees, costs and expenses." (Report and Recommendation of Hearing Officer, from May 25, 2021 hrg).

to Defendant's Motion to Extend. On November 29, 2021, this Court granted Husband's Motion to Extend and permitted the exceptions to be considered filed *nunc pro tunc*. Consequently, Plaintiff did not file a Motion to Reconsider or any similar motion objecting to the Court's Order on November 29, 2021.

Thereafter on February 14, 2022, argument was held on Husband's exceptions. One of the exceptions raised was that the Hearing Officer "erred as a matter of law in awarding 70% of the marital portion of the Defendant's pension with the Teacher's Retirement System of the City of New York (TRSNYC) to Plaintiff."

On May 5, 2022, This Court granted that exception but denied all others. Thereafter, on May 31, 2022, Wife filed her Notice of Appeal. Contemporaneously therewith, she filed a Motion for Reconsideration of the Equitable Distribution Order⁵ as well as concise statement of matters complained of on appeal.

In this concise statement, Wife alleges three (3) errors by the Trial Court, namely that:

1. The Trial Court committed an abuse of discretion by failing to require Defendant/Husband to produce evidence of his attempt to file Exceptions within the twenty (20) day period required by Pa.R.C.P. Rule 1920.55-2(b), before granting him leave to file Exceptions.

⁴ Simultaneously with this filing, the Husband did in fact file exceptions, however, they were not acted upon until the Motion to Extend was decided.

⁵ This Court, after argument denied this motion on August 23, 2022.

2. The Trial Court erred when finding that Defendant/Husband's receipt of pension benefits was considered as income in a Domestic Relations child support action, where the record is devoid of any evidence.
3. The Trial Court erred by concluding that Plaintiff/Wife forfeited her equitable share of the marital component of Defendant/Husband's pension if Defendant/Husband's pension benefits were considered as income in a prior child support action where the support order terminated approximately two (2) years prior to the equitable distribution hearing.

LEGAL DISCUSSION

I. Defendant's "Motion for Leave to Extend Deadline."

Plaintiff on appeal has averred the Trial Court erred when allowing the Defendant to file Exceptions to the Hearing Officer's Report *nunc pro tunc*. The Trial Court held an argument and thereafter, granted the Defendant's Motion to Extend Deadline for Exceptions. Under Pennsylvania Rule of Civil Procedure 1920.55, parties may file exceptions within twenty (20) days of the date of service of the original exceptions. Pa.R.C.P. 1920.55-2. Defendant requested leave to extend the deadline for filing exceptions arguing that the exceptions sent in the mail on August 6, 2022, consequently did not reach the Prothonotary's Office. This Court scheduled a hearing on September 21, 2021, to hear Defendant's

Motion. This Court opened the hearing by asking counsel how they believed this matter should proceed and both Plaintiff and Defendant's attorneys agreed to "argue" the Motion.

Rule 126 of the Pennsylvania Rules of Civil Procedure provides that "[t]he rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties." See Pa.R.Civ.P. 126. "Rule 126 is not a judicial recommendation which a court may opt to recognize or ignore. Rather the rule is a statement of the requirement of fairness and establishes an affirmative duty courts are bound to follow in applying all procedural rules. . . ." *Byard F. Brogan, Inc. v. Holmes Elec. Protective Co. of Philadelphia*, 460 A.2d 1093, 1096 (Pa. 1983).

Additionally, Rule 248 of the Pennsylvania Rules of Civil Procedure provides that "[t]he time prescribed by any rule of civil procedure for the doing of any act may be extended or shortened by written agreement of the parties or by order of court." See Pa.R.Civ.P. 248. "The lower courts may extend or refuse to extend the time within which to meet a filing requirement so long as the action taken does not amount to an abuse of discretion which causes manifest and palpable injury to one of the parties." *Brogan, supra*, citing *Gagliardi v. Lynn*, 446 Pa. 144,

285 A.2d 109 (1971). Rule 126 and 248 demonstrate the authority of this Court to grant Defendant leave to extend the deadline to file exceptions.

In the case *sub judice*, Defendant's counsel argued that he had mailed the exceptions on August 6, 2022. Defendant's counsel filed Exceptions at the same time as the Motion for Leave to Extend deadline. Defendant's counsel demonstrated that by some oversight, not by their own fault, the Exceptions did not get filed timely in the Prothonotary. This Court feels that this was a sufficient reason to grant an extension of time for filing exceptions.⁶

II. Parties stipulated to using the Defendant's pension for Child Support.

On February 14, 2022, this Court held an argument on the Exceptions to the Hearing Officer's Report, filed by Defendant. During this argument, the Court asked Plaintiff's counsel if in fact, Husband's pension had been used to calculate child support from 2007 until 2020, when the last child of the parties turned 18 years old. In response, Plaintiff's Counsel agreed that Husband's pension was used in the calculation of child support.⁷ Thereafter,

⁶ This Court found that Plaintiff was not prejudiced by the late filing of the Exceptions because at the same hearing Plaintiff petitioned the Court to hold Husband's pension funds in escrow until a final Equitable Distribution Order. When the Court granted the Motion to extend deadline on November 29, 2021, we also granted a request that a share of the pension be placed into escrow until the Exceptions were addressed.

⁷ At the argument on February 14, 2022, the following took place:

Plaintiff's Counsel: Also one of the arguments that [Defendant] has is that taking his money during the divorce is that [Plaintiff]

this Court took judicial notice, on its own initiative, of the Domestic Relations Order which included that Husband's pension was used to calculate child support payments for 14 years after separation of the parties.

Rule 201 of the Pennsylvania Rules of Evidence provides that: "The court may judicially notice a fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonable be questioned." Further, "The court may take judicial notice on its own," and "[t]he court may take judicial notice at any stage of the proceeding." Pa.R.E. 201. In the case *sub judice*, it is not disputed that the pension was used to calculate child support. The issue raised by Plaintiff's counsel was that this information was not testified to at the Hearing Officer's Equitable Distribution Hearing.

is "double dipping" and that is was also factored into calculating calculate child support. In our brief we put that we believe the child derivative from the Social Security actually paid most of the child support.

Judge Matika: But wasn't that considered?

Plaintiff's Counsel: I believe that it was considered.

Judge Matika: The Husband's pension income?


Plaintiff's Counsel: Correct.

Judge Matika: So he did pay off of some of that?

Plaintiff's Counsel: Yes.

This notwithstanding, we believe the general reasons for which Wife challenges the granted Exceptions have been fully and comprehensively addressed in the Memorandum Opinion of May 5, 2022, which not only covers two (2) of the three (3) concerns raised by Wife in her Concise Statement, but which demonstrates Wife attempt to equitably distribute Husband's pension that had already been used to calculate his child support payment. Because these issues have been addressed in our Memorandum Opinion of May 5, 2022, a copy of that Opinion has been attached and marked as Appendix A to this Opinion for the Court's reference and convenience. The reasoning therein, we believe, fully and comprehensively explains why Husband's pension can no long be considered an asset available for equitable distribution. Accordingly, we respectfully request that such decision and Equitable Distribution Order of May 5, 2022, be affirmed on appeal.

BY THE COURT:



Joseph J. Matika, J.

APPENDIX A

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

JACQUELINE A. CICARDO,
Plaintiff

Vs.

WILLIAM A. CICARDO,
Defendant

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No. 20-0698

IN DIVORCE

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CARBON COUNTY
PROthonotary

FILED

Barry C. Shabbick, Esquire
Brian J. Cali, Esquire

*Sub 210
11/11/21*

Counsel for Plaintiff
Counsel for Defendant

MEMORANDUM OPINION

Matika, J. - May 5, 2022

Before the Court are "Exceptions to the Hearing Officer's Report" filed by the Defendant, William Cicardo, (hereinafter "Defendant" or "Husband"), against Plaintiff, Jacqueline Cicardo, (hereinafter "Plaintiff" or "Wife"). In this action, Defendant excepts to the Recommended Order of equitable distribution submitted by the Hearing Officer, Eileen Diehl, filed on July 23, 2021. An argument was held on the Exceptions on February 14, 2022. Based upon the evidence presented, the applicable case law and governing statute, and briefs lodged, Defendant's Exceptions are **GRANTED in part and DENIED in part.**

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff commenced this action on April 22, 2020 by filing a complaint for divorce, equitable distribution, alimony pendente lite, counsel fees, costs and expenses, and post-divorce alimony.

Attorney Matthew Kelly accepted service of the divorce complaint on behalf of the Defendant via affidavit on May 14, 2020 and the affidavit was filed on May 22, 2020. On March 8, 2021 Attorney Eileen M. Diehl was appointed to hear the claims raised in the pleadings.

An initial divorce conference was held on April 15, 2021 at which time, it was agreed/stipulated to by the parties and both counsel that the only issue remaining unsettled was the distribution of Husband's pension. This is also reflected in the fact that each party filed an inventory which lists Husband's pension as the only asset to be distributed in the divorce. The Hearing Officer's hearing was held on May 25, 2021. Plaintiff appeared with Attorney Shabbick. Defendant's attorney withdrew from representation on May 13, 2021. Defendant failed to appear or to participate in the Hearing Officer's hearing, however it is specifically noted that Wife verified on the record that she observed that Husband was posting on Facebook at 8:20 A.M. while she was waiting in the courthouse hallway, just before the hearing commenced. It is also is noted that Attorney Kelly filed his withdrawal of appearance/appearance of Husband as pro se on May 13, 2021, a full twelve (12) days prior to the hearing date. Furthermore, it is specifically noted that the Defendant filed a motion for continuance of the hearing on May 26, 2021, the day after the hearing. The motion for continuance was properly denied

Since Defendant did not appear at said hearing, the Court concludes the facts in the record to be correct. The Court however, does not find that the Husband's pension needs to be discussed in length, for it being declared Husband's sole property.² Defendant filed Exceptions to the Hearing Officer's Recommended Order. Defendant averred seven (7) exceptions³ to the Hearing Officer's Recommended Order. Subsequently, Plaintiff filed a Petition for Special Relief

calculatingly chose to move out at age 62 ½, because at this specific age, his Social Security derivative benefit would pay the bulk of the child support he would have to owe Wife. Husband receives Social Security in the amount of \$1,600 per month. Wife did not testify as to any chronic health ailments of Husband. Husband is now 76 years old.

CLAIM FOR COUNSEL FEES, COSTS AND EXPENSES

Wife has expended approximately \$3,579.80 in attorney's fees, costs and expenses in this divorce action. This does not include the attorney fees she would have presumably subsequently incurred as a result of her attorney representing her at the hearing. Given the disparity in income of the parties, it is prudent to award Wife her counsel fees, costs and expenses.

² The Hearing Officer's Report concluded that Wife is entitled to 70% of the marital portion of Husband's pension. This Court does not agree with the Hearing Officer's Report on this issue as explained in length herein.

³ Defendant excepts to the Hearing Officer's Report and in support thereof avers the follow:

1. The Defendant did not have a chance to appear at the Hearing Officer's hearing that took place on May 25, 2021.
2. The Defendant did not have counsel at the time and therefore contacted the Court to request a continuance of the May 25, 2021, hearing and paid a filing fee to the Prothonotary for the same.
3. Due to the Defendant filing a request for continuance, he believed that the Hearing Officer's hearing scheduled for May 25, 2021, was continued and therefore did not appear at the hearing.
4. The Defendant was not aware the hearing took place on May 25, 2021, until such time he received the Hearing Officer's Report in the mail on August 2, 2021.
5. The facts that established the factors were not developed accurately with regard to the Defendant in that he was not present at the time of the hearing in order to put into evidence his factors.
6. The Hearing Officer's erred, as a matter of law, in awarding 70% of the marital portion of the Defendant's Pension with the Teacher's Retirement System of the City of New York (TRSNYC) to Plaintiff.
7. The Hearing Officer's erred, as a matter of law, in awarding the Plaintiff counsel fees in the amount of \$3,580.00.

on August 30, 2021, seeking the monies awarded, to be placed in an escrow account held by Plaintiff's attorney. The Court ordered on November 25, 2021, that the money in question shall be held in escrow by Attorney Shabbick.⁴

An argument was held on February 14, 2022, regarding the Exceptions to the Hearing Officer's Order. Defendant proffered several arguments in favor of sustaining the preliminary objections, however, the exception found to be dispositive is that the Hearing Officer failed to account for the fact that Husband's pension had already been used to calculate child support payments.⁵

LEGAL DISCUSSION

Although advisory, the Hearing Officer's findings and recommendations shall be given the fullest consideration, particularly on the question of credibility of witnesses, because the Hearing Officer has the opportunity to observe and assess the behavior and demeanor of the parties. *Childress v. Bogosian*, 12 A.3d 448, 455-456 (Pa.Super. 2011) (most internal citations and

⁴ Defendant was ordered to remit the sum of Eight Hundred and Five Dollars (\$805.00) per month to counsel for the Plaintiff until further order of court. In addition, Defendant was also required to remit the sum of Three Thousand, Two Hundred Twenty Dollars (\$3,220.00) to counsel for Plaintiff.

⁵ The parties have four (4) children and at the time of the parties' separation in 2007 all four (4) children were minors. On or about April 12, 2007, Plaintiff filed a Complaint in Support in Luzerne County. A Domestic Relations Order was in effect from 2007 through June 2020, when the last child was emancipated. The last guideline calculation was completed in 2009 when the parties agree to Defendant's net monthly income of \$3,338.00. This net monthly income is consistent with Defendant's receipt of pension payments and Social Security.

A.3d 448, 455-456 (Pa.Super. 2011) (most internal citations and quotation marks omitted). The final responsibility for making the equitable distribution of property rests with the court. *Tagnani v. Tagnani*, 654 A.2d 1136 (Pa.Super. 1995). The court has the authority to deviate from the Hearing Officer's recommendation if it is not supported by the record or it conflicts with the law. *Morschhauser v. Morschhauser*, 516 A.2d 10 (Pa.Super. 1986).

Equitable Distribution of the Defendant's Pension

The decision that 70% of the martial portion of Husband's pension shall be awarded Wife was inappropriately calculated because it conflicts with Pennsylvania law. The Superior Court has held that "an asset awarded in equitable distribution may not be included in an individual's income for purposes of calculating support payments" *Hess v. Hess*, 212 A.3d 520, 524 (Pa.Super. 2019). In determining income for support purposes, it is axiomatic that the trial court may not include income that constitutes marital property under 23 Pa.C.S.A. § 3501, as such an action would foreclose the equitable distribution of those assets. *Miller v. Miller*, 783 A.2d 832, 835 (Pa.Super. 2001). The court further explained that "money included in an individual's income for the purpose of calculating support payments may not also be labeled as a marital asset subject to equitable distribution." *Miller*, 783 A.2d at 835 (quoting *Rohrer v. Rohrer*, 715 A.2d 463, 465 (Pa.Super. 1998)) (most internal citations and quotation marks omitted). The

Superior Court additionally, has held that the Commonwealth does not condone "double dipping," i.e., using the same revenue as a source for "support" and "equitable distribution." *Berry v. Berry*, 898 A.2d 1100, 1105 (Pa.Super. 2006); *Cerny v. Cerny*, 656 A.2d 507 (Pa.Super. 1995).

Although the Hearing Officer noted that child support was paid by the Defendant, from a calculation which included the Defendant's pension payments, the Hearing Officer failed to recognize the inclusion of pension income for the child support calculation in awarding a division of those pension payments. The Child Support Orders took into consideration Defendant's pension benefit and was utilized to calculate the appropriate child support award to Plaintiff from April, 2007 until June, 2020. This Court finds that Plaintiff is not entitled to an award of 70% of the marital portion of Defendant's pension because the Court cannot equitably divide an asset that was already used to calculate a child support obligation.

Attorney's Fees Awarded to Plaintiff

The purpose of an award of counsel fees is "to promote the fair and impartial administration of justice by enabling the dependent spouse to maintain or defend the principal action in Divorce without being placed at a financial disadvantage" or, in other words, to place the parties "on par" in protecting their rights. *Busse v. Busse*, 921 A.2d 1248, 1258 (Pa.Super. 2007). An

award of counsel fees may be entered against a participant in any matter for dilatory, obdurate or vexatious conduct during the pendency of a matter. 42 Pa.C.S. § 2503. Counsel fees are awardable in connection with divorce proceedings in the discretion of the Court. 23 Pa.C.S. § 3323(b). Awards of counsel fees are made on a case-by-case basis after review of the relevant factors, including the payer's ability to pay and the financial resources of the requesting party. The factors to be considered include the size of the estate of the requesting party, the value of the services rendered, the ability to pay and the property received in equitable distribution, and the conduct of one of the parties which protracts the litigation and increases the expenses of the proceeding. *Busse v. Busse*, 921 A.2d 1248, 1258 (Pa.Super. 2007). An award of counsel fees is not automatically made, an actual need must be established. Need is a relative concept, and may be inferred where there is a gross disparity in the parties' incomes. *Williams v. Williams*, 540 A.2d 563 (Pa.Super. 1988).

In the case *sub judice*, the Defendant's ability to pay has been established, as were the limited financial resources of the Plaintiff. The conduct of the Defendant by failing to attend the hearing and then the filing of Exceptions has significantly protracted the litigation and increased Plaintiff's litigation cost of the proceeding. Further Defendant did not incur fees for failing to attend the hearing. The Hearing Officer concluded that

there existed a disparity in the parties' incomes and a need existed for the awarding of attorney's fees to Plaintiff.

CONCLUSION

Based upon our analysis of the applicable statute regarding standing, the Court enters the following order:

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

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CARBON COUNTY
PROTHONOTARY

JACQUELINE A. CICARDO,	:		
Plaintiff	:		
	:		
Vs.	:	No.	20-0698
	:		
WILLIAM A. CICARDO,	:	IN DIVORCE	
Defendant	:		

EQUITABLE DISTRIBUTION ORDER

AND NOW, this 5th day of May, 2022, upon consideration of the "Defendant's Exceptions to the Hearing Officer's Report" filed August 20, 2021 by Defendant, William A. Cicardo, along with briefs lodged to support thereof or in opposition thereto, and after argument thereon, it is hereby **ORDERED and DECREED** as follows:

1. Husband shall pay to Wife the sum of **\$3,580.00** in consideration of her reasonably necessary counsel fees, costs and expenses incurred in this divorce proceeding;¹
2. Wife shall not be entitled to receive any portion of the marital component of Husband's pension with the Teacher's Retirement System of the City of New York (TRS NYC);
3. All other assets titled in Husband's name alone shall become and remain his sole and separate property without any further claim thereto by Wife;

¹ Per the Order of November 29, 2021, the Defendant has paid monies into an escrow account held by Plaintiff's attorney. Those monies shall be applied to Plaintiff's attorneys' fees in the amount of \$3,580.00 and any money left over in the escrow shall be returned to Husband.

4. All other assets titled in Wife's name alone shall become and remain her sole and separate property without any further claim thereto by Husband; and
5. By further order of court, JACQUILINE CICARDO, Plaintiff and WILLIAM CICARDO, Defendant, shall be divorced from the bonds of matrimony.

BY THE COURT:



Joseph J. Matika, J.