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

JOHN FIKENTSCHER,	:	
Plaintiff/Respondent	:	
vs.	:	**No. 23-FC-1095**
	:	
DEBORAH FIKENTSCHER, n/k/a	:	
DEBORAH MIRANDA,	:	
Defendant/Petitioner	:	
	:	

James R. Nanovic, Esquire Counsel for Plaintiff/Respondent

Arley Kemmerer, Esquire Counsel for Defendant/Petitioner

MEMORANDUM OPINION

Matika, J. – May 18, 2026

Before the Court is a "Petition to Set Aside Property Settlement Agreement and Re-Open/Vacate Decree in Divorce", filed by Defendant/Petitioner, Deborah Fikentscher, now known as, Deborah Miranda (hereinafter "Miranda"). For the myriad of reasons given herein, this Court denied all relief requested.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff/Respondent, John Fikentscher (hereinafter "Fikentscher") filed a complaint in divorce on June 13, 2023. At that time, he was represented by Kelly Jamison, Esquire. Miranda never filed an answer nor counterclaim to the divorce complaint despite consulting two different attorneys, first the firm of Olexa and Casari when she received the divorce complaint and then Kim

Gillen, Esquire some time thereafter. Despite executing a fee agreement with Attorney Gillen, Attorney Gillen never entered her appearance in this case.

On or about September 13, 2023, both Fikentscher and Miranda appeared at the Offices of Kelly Jamison. Attorney Jamison, while representing Fikentscher only, spent considerable time reviewing the marital settlement agreement that she prepared at the request of Fikentscher. Miranda appeared at that time without counsel. After lengthy discussions, the marital settlement agreement was executed by the parties. Ultimately, by virtue of the entry of a Divorce Decree on September 20, 2023, that agreement was incorporated into, but did not merged into the Divorce Decree.

On September 4, 2025, Miranda filed the petition that is the subject of this litigation. In that petition, she averred that: 1) she was not provided a copy of the appraisal on the marital residence, her share of the net value of which resulted in a payoff to her of $186,399.99; 2) she was not privy to any documentation pertaining to any marital assets or debts prior to the execution of the marital settlement agreement; 3) she only learned of the existence of several tracts of real estate after the divorce decree was signed, said tracts having been obtained during the marriage, but not addressed in the marital settlement agreement; and 4) she learned, since the divorce decree was entered, that a number of tax liens which accrued during the marriage existed, when, due to

Fikenstcher's failure to pay them, her wages were garnished in an attempt to satisfy them. Miranda claims that Fikentscher did not disclose these assets nor inform her of these liens and his material misrepresentation of the same fraudulently induced her into signing the marital settlement agreement. As a result, she requests various forms of relief: 1) vacate <u>or</u> re-open(sic) the decree in divorce; 2) set aside the marital settlement agreement, or alternatively re-open (sic) that agreement to address the undisclosed assets and debts, and 3) allow for her to make a claim for post-divorce alimony.

A hearing was held on the Petition. At that hearing, Miranda testified that she was aware of the two other parcels of real estate before the marital agreement was executed[1]. She also acknowledged that she was aware that they were in the parties' son, Gavin's name, as Fikentscher thought it was a good idea to do so because of the fact that he "didn't want the IRS to find them[2]."

Miranda further testified that the first time she saw the marital property agreement that she ultimately signed was on September 13, 2023 in Attorney Jamison's office. Additionally, that is the first time she claims she became aware of the amount

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[1] Miranda testified that "my aunt sold – they were just 1 acre lots, and my aunt sold us one, and then some guy that lived in the same development sold us one." When asked by her counsel further on direct, if it was her belief they were purchased "by the two of you of your marriage?", she replied, "yes." N.T. 12/22/25 at 19.

[2] N.T. 12/22/25 at 20.

that Fikentscher was to pay her for her share of 67 Wolf Drive, Jim Thorpe, the former marital residence, that being, $186,399.99. She did acknowledge that Fikentscher told her that she would be leaving with a check[3].

On cross-examination, Miranda admitted she consulted with two attorneys, but did not hire either, that she had the appraisal, received in an email dated May 4, 2023 for 67 Wolf Drive, Jim Thorpe, and that she had knowledge of IRS problems as agents came to their home years prior.

Next, Attorney Jamison testified. She explained how she was engaged by Fikentscher to file a divorce complaint on his behalf. Further, Attorney Jamison prepared the marital settlement agreement with information provided by Fikentscher. At the meeting that occurred on September 13, 2023, Attorney Jamison went through each paragraph in great detail, while also encouraging Miranda to hire counsel. As to the IRS debt, Attorney Jamison mentioned that it was something discussed during the meeting, but the parties did not want it addressed in the agreement, nor did they wish for the credit card debt to be referenced in there either[4].

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[3] Despite first claiming she was unaware of the amount before she appeared at that meeting, she did acknowledge, upon further direct examination, that she was getting that amount when she stated, "because he told me that I was getting that" and "I thought I was getting 180, but yeah." N.T. 12/22/25 at 19.

[4] Attorney Jamison further explained what occurred *vis-à-vis* these issues as follows: "We also talked about their credit cards being separate. So what we discussed was that any debts that they have would remain separate. And whatever agreement that they had regarding the IRS debt would continue to be their agreement amongst themselves. It wasn't something that neither one of them

Lastly, Fikentscher testified. He confirmed that in anticipation of arriving at a buyout amount, he provided a copy of the appraisal for 67 Wolf Drive to Miranda along with evidence of the then outstanding mortgage. He also noted that he owned another piece of real estate with his uncle Bill Gullone, that likewise was not referenced in the marital settlement agreement and that the other parcels were put in Gavin's name due to the IRS issue. Fikentscher noted as far as the IRS debt, it was not in the agreement as " . . . I was the one that was taking care of it.[5]" As far as the other real estate Fikentscher noted that "Deborah wanted nothing to do with it.[6]"

After the hearing, the parties were given an opportunity to lodge post-hearing briefs, which they did. In her brief, Miranda raised three (3) legal arguments: 1) that testimony should be barred from consideration by the parol evidence rule; 2) that the decree should be vacated based upon evidence of extrinsic fraud; and 3) that the agreement should be set aside based upon a lack of full and fair disclosure. This Court will address each of these *seriatim*.

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wanted addressed in the settlement agreement. Why? I don't know. But they did not want the IRS debt or their individual credit cards or any other debt; for that matter, addressed in the settlement agreement because it was not something that they made a subject or an issue in their divorce." N.T. 12/22/25 at 60-61.

[5] N.T. 12/22/25 at 94.

[6] N.T. 12/22/25 at 98.

I. **Bar Testimony By Virtue of Parol Evidence Rule**

Miranda's first argument is that the testimony of Fikentscher and Jamison, but not hers, should be barred and not considered by the Court because of the parol evidence rule.

Even before addressing this issue on its merits, this Court believes Miranda has waived this argument as not only did she not object to the testimony of each witness on direct examination, but her counsel cross-examined that very testimony and evidence. Further, if the parol evidence rule is applicable, it would apply to Miranda's testimony also, such that the Court would bar all testimony.

In order for the parol evidence rule to apply to bar any testimony, this Court must determine that there is no ambiguity in the written contract, or in this case, the marital settlement agreement, entered into between the parties. *Yocca v. Pittsburgh Steelers Sports, Inc.*, 854 A.2d 425, 438 (2004). Should there be "ambiguity" in the contract that needs to be explained or varied, parol evidence would be permitted. *Davis v. Davis*, 619 A.2d 743 (Pa. Super. Ct. 1993). For a contract to be deemed ambiguous, it must be susceptible to reasonably different constructions and capable of being understood in more than one sense. *Yocca, Supra*.

In this Court's review of the marital settlement agreement, there are no ambiguities relative to the agreement executed on

September 13, 2023, nor do the parties allege any. However, in this case Miranda argues that Fikentscher committed fraud that led her to sign the September 13, 2023 agreement.

> "Where the parties, without any fraud or mistake, have deliberately put their engagements in writing, the law declared the writing to be not only the best, but the only, evidence of their agreement. All preliminary negotiations, conversations and verbal agreements are merged in and superseded by the subsequent written contract . . . and unless fraud, accident or mistake is averred, the writing constitutes the agreement between the parties and its terms and agreements cannot be added to nor subtracted from by parol evidence." *Gianni v. Russell & Co.*, 281 PA. 320, 126 A.791, 792 (1924) (citations omitted). (emphasis added).

While the *Gianni* case and others would normally preclude the testimony of all of these witnesses, the fact that Miranda alleges that Fikentscher's material misrepresentations fraudulently induced her to sign the marital settlement agreement, this Court believes that the evidence presented by all witnesses is not prohibited by the parol evidence rule and needs to be considered on the issue raised by Miranda.

II. Evidence of Extrinsic Fraud

Miranda next argues that the decree should be opened or vacated if it is more than thirty (30) days after its issuance if there is extrinsic fraud involved.

In *Fenstermaker v. Fenstermaker*, 502 A.2d 185 (Pa. Super. Ct. 1984), the Court explained the difference between opening and vacating a decree. In order to open a decree, there must be intrinsic fraud such as perjury or false testimony. A petition to vacate a decree is premised upon extrinsic fraud which relate "to matters collateral to the judgment which have the consequence of precluding a fair hearing or presentation of one side of the case. *Id* at 188.

In her post-hearing submission, Miranda claims that because she was financially dependent upon her ex-husband, she suffered from depression, he threatened to turn the children against her if she got an attorney, he "shielded" her from the marital finances, and he revoked her access to a joint bank account among other claims, this is tantamount to extrinsic fraud and that she was misled by Fikentscher.

Miranda acknowledged in her testimony that she was aware of two bank accounts, one of which her husband claimed was hacked. She acknowledged going to consult with two attorneys, yet failed to hire either one. She acknowledged being aware of the existence of other pieces of real estate as well as the IRS tax liens. She acknowledged receiving the appraisal and mortgage balance for 67 Wolf Drive. She acknowledged that she was aware of all this information before she executed the agreement on September 13, 2023, yet she executed it anyway. Miranda had every opportunity to either litigate all the claims and every aspect of equitable distribution but instead chose to sign the agreement with only those provisions contained therein. Further, Miranda acknowledges, contrary to her claims of extrinsic fraud, that Fikentscher assured her that "he was not going to screw her."

It is also important to point out here, that Miranda had every opportunity to walk out of Jamison's office on September 13, 2023, however, faced with the prospect of receiving a $186,399.99 check, she chose to sign the marital settlement agreement and waive all claims she may have had to other marital assets.

III. Lack of Full and Fair Disclosure

Lastly, Miranda argues that the marital settlement agreement should be set aside due to a lack of full and fair disclosure on the part of husband. This Court finds this argument meritless as the testimony clearly shows that Miranda was aware of the existence of Fikentscher's business, the other parcels of real estate and the existence of the IRS lien, all before she executed the agreement. Miranda was also aware of the net value of the marital residence, marital vehicles as well as other marital assets/debts outlined in the agreement. At the hearing, Miranda did not identify any asset of the marriage that she learned about after signing the agreement. This Court finds no lack of full and fair disclosure necessitating the setting aside of the marital settlement agreement.

CONCLUSION

For all the reasons stated herein, this Court denies the Petition in all respects and all forms of relief requested therein.

BY THE COURT:

/s/Judge Joseph J. Matika
Joseph J. Matika, J.