

FILED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO.: 21 CVD 16904

2022 APR -5 P 4:34

MICHAEL SALYER,
Plaintiff,

WAKE CO., N.C.

v.

ANSWER AND COUNTERCLAIMS

MARIAN SALYER,
Defendant.

NOW COMES DEFENDANT, by and through the undersigned counsel, and answers Plaintiff's December 21, 2021 Complaint as follows:

1. The allegations contained in Paragraph 1 of Plaintiff's Complaint are admitted.
2. The allegations contained in Paragraph 2 of Plaintiff's Complaint are admitted.
3. The allegations contained in Paragraph 3 of Plaintiff's Complaint are admitted.
4. The allegations contained in Paragraph 4 of Plaintiff's Complaint are admitted.
5. The allegations contained in Paragraph 5 of Plaintiff's Complaint are admitted.
6. The allegations contained in Paragraph 6 of Plaintiff's Complaint are admitted.

COUNTERCLAIMS

NOW COMES Defendant and realleges and incorporates by reference her Answer to Plaintiff's Complaint for Absolute Divorce Based on One Year's Separation as if set out above and counterclaims against Plaintiff for Alimony, Attorneys' Fees, and Equitable Distribution.

Defendant alleges and says to his Counterclaims as follows:

JURISDICTIONAL ALLEGATIONS

1. Plaintiff is a citizen and resident of Wake County, North Carolina and has been for more than six months immediately preceding the filing of this action.
2. Defendant is a citizen and resident of Wake County, North Carolina and has been for more than six months immediately preceding the filing of this action.
3. On May 18, 1990, the parties were married.
4. On July 20, 2020, the parties separated.

5. There were four (4) children born of the parties' marriage, to wit: Lily Salyer, born April 7, 2004; Bradley Salyer, born September 20, 1999; Griffin Salyer, born February 23, 1997; and John-Michael Salyer, born March 12, 1995.

DEFENDANT'S FIRST AND SECOND CLAIM FOR RELIEF

Alimony and Attorneys' Fees

6. Defendant hereby realleges and incorporates by reference her Answer to Plaintiff's Complaint and Paragraphs 1-5 above as if set out fully herein.
7. Defendant is a dependent spouse and is actually substantially dependent upon Plaintiff for maintenance and support. Defendant is in need of maintenance and support from Plaintiff within the meaning of N.C.G.S. §50-16.1A(2). Defendant's resources are not adequate to meet her reasonable needs.
8. Plaintiff is a supporting spouse as defined in N.C.G.S. §50-16.1A(5). He is an able-bodied man who is able to provide reasonable and adequate support to Defendant so as to meet her reasonable needs.
9. Defendant is entitled to retroactive and prospective alimony.
10. Since the parties' separation, Plaintiff has frequently put funds into a joint account which both parties have access to. However, Plaintiff routinely spends a large portion of the funds that he puts into the account, leaving very little or no funds for Defendant to actually use for her expenses. As such, Defendant has been unable to meet her reasonable needs.
11. As Plaintiff has not paid adequate support since the date of separation, Defendant has been forced to nearly deplete her available funds to afford to live.
12. During the marriage, Defendant was a faithful and dutiful spouse. Defendant has not committed marital misconduct.
13. Plaintiff has committed acts of marital misconduct during the marriage within the meaning of N.C.G.S. §50-16.1A(3), including but not limited to:
 - a. Plaintiff committed indignities rendering the condition of Defendant intolerable and life burdensome, as follows:
 - i. Throughout the marriage, Plaintiff routinely sexually assaulted Defendant during her sleep. Defendant would frequently wake up from her sleep to find Plaintiff sexually touching her. Defendant expressed to Plaintiff that she did not consent to being touched in her sleep. Defendant told Plaintiff how traumatizing and scary his behavior was to her, yet Plaintiff continued.
 - ii. Plaintiff was emotionally abusive to Defendant during the marriage. Plaintiff would belittle and make fun of Defendant to the parties' children. Plaintiff

would make fun of the things Defendant would tell the parties' couples counselor in therapy to the minor children. Plaintiff raised his voice at Defendant and insulted her frequently. Plaintiff blamed Defendant for things outside of her control, such as Plaintiff being fired from his job.

- iii. Plaintiff was financially controlling during the marriage, as he was the breadwinner for the family for the majority of the marriage. Plaintiff would raise his voice and fuss at Defendant for things she spent money on, while Plaintiff spent money on porn, nude spas, strip clubs, clothes, and a trip with the woman Plaintiff was having an affair with, upon information and belief. In particular, Plaintiff spent money at nude spas while on work trips.
- iv. Plaintiff allowed the parties' two adult sons and their wife/girlfriend to live in the parties' home without discussing the same with Defendant and without her consent. Defendant explained to Plaintiff that she believed if the parties' adult son and his girlfriend were going to live in the home, they should try to contribute at least a small amount financially. In April 2019, the parties' adult son attacked Defendant and injured her. Even after this incident, Plaintiff would not protect Defendant from the parties' son and allowed him to live in the house over Defendant's objections and despite Defendant voicing to Plaintiff that she was afraid of their son.

b. Plaintiff engaged in cruel and barbarous treatment of Defendant, endangering her life, as follows:

- i. When Plaintiff would drive Defendant during the marriage, Plaintiff would frequently hit Defendant with his arms and act as if it was an accident. Plaintiff would do so when angry with Defendant.
- ii. On July 14, 2020, Plaintiff threw a boombox at Defendant, which hit her in leg, causing a cut and a bruise. Defendant told Plaintiff she was hurt and bleeding, but Plaintiff continued to raise his voice and fuss at her. Defendant had to lock herself in the hall bathroom at the parties' home and call the police.

c. Upon information and belief, Plaintiff engaged in illicit sexual behavior during the marriage, which Defendant did not condone or forgive. Plaintiff took a trip during the marriage without Defendant. Defendant found out after the fact that Plaintiff had in fact taken the trip with her best friend at the time. Defendant only found out after she saw Plaintiff leaving her friend's home. Even after seeing Plaintiff leaving her friend's home, Plaintiff still told Defendant that he had gone on the trip alone. Plaintiff later admitted to taking the trip with Defendant's best friend and sharing a hotel room with her.

14. It would be equitable to require Plaintiff to contribute to the support of Defendant pursuant to N.C.G.S. §50-16.2A and §50-16.3A. In support of this contention, Defendant shows the

Court the following:

- a. Plaintiff's earning capacity throughout the parties' marriage and following the parties' separation is much higher than Defendant's earning capacity;
 - b. Plaintiff earned as much as \$170,000/year during the marriage and routinely made more than \$100,000/year during the marriage. Upon information and belief, Plaintiff is currently in good physical health and able to be gainfully employed;
 - c. Defendant is currently unemployed and unable to work due to numerous physical and mental health problems. The most Defendant ever earned during the parties' marriage was approximately \$20,000. Defendant was a public school teacher until approximately 1994-1995, but has not worked regularly since then. Defendant left teaching due to a traumatic incident at her school where a student threatened her life;
 - d. Defendant is 54 years old and in poor health. The same prevents her from being gainfully employed. Defendant has PTSD relating to the incident laid out above where a student she was teaching threatened her life;
 - e. Defendant has significant monthly needs due to her poor health and has significant medical bills each month;
 - f. Defendant does not have significant retirement assets of her own;
 - g. Defendant used the minimal earnings she made as a teacher during the parties' marriage to help Plaintiff pay for his masters' degree program;
 - h. The parties enjoyed a comfortable standard of living during the marriage due to Plaintiff's income and took trips often;
 - i. During the marriage, Defendant was the primary caregiver to the parties' children and was the primary homemaker;
 - j. During the marriage, Plaintiff spent money on things which did not benefit the marriage, such as porn, nude spas, strip clubs, and the woman with whom he cheated; and
 - k. Others to be disclosed at trial.
15. Defendant has brought this action in good faith and does not have sufficient means to subsist during the prosecution of this action or to defray the unnecessary expenses thereof. Defendant is unable to meet Plaintiff on equal footing in the litigation. Since the parties' separation, Plaintiff has not provided Defendant with adequate support. Defendant is in need of and is entitled to retroactive and prospective alimony as well as attorneys' fees.

DEFENDANT'S THIRD CLAIM FOR RELIEF

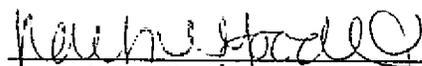
Equitable Distribution

16. Defendant hereby realleges and incorporates by reference her Answer to Plaintiff's Complaint and Paragraphs 1-15 above as if set out fully herein.
17. During the marriage, the parties acquired marital and divisible property and incurred marital and divisible debt, which is subject to equitable distribution pursuant to N.C.G.S. §50-20.
18. The parties have not yet reached an agreement regarding the distribution of the marital and divisible property and debt and are entitled to have this Court equitably distribute the same.
19. Defendant is entitled to and hereby requests an equitable distribution of marital and divisible property by this Court pursuant to N.C.G.S. §50-20.
20. An equitable distribution would be an unequal distribution of the marital and divisible property in Defendant's favor, based on the factors set forth in N.C.G.S. §50-20(c) that will be proven at trial. The parties' marital debt should largely be distributed to Plaintiff.

WHEREFORE, Defendant prays this Court:

1. Accept Defendant's Answer and Counterclaims as an Affidavit of Defendant that can be used at subsequent hearings in this matter;
2. Award Defendant retroactive and prospective alimony;
3. Grant Defendant an award of reasonable attorneys' fees;
4. Equitably distribute the parties' marital and divisible property and debts pursuant to N.C.G.S. §50-20 by awarding Defendant a greater than equal share of the marital assets and distributing the majority of debt to Plaintiff; and
5. For such other and further relief in Defendant's favor as this Court deems just and proper.

This the 5 day of April, 2022.



Rachel Goodling, Attorney for Defendant
SANDLIN FAMILY LAW GROUP
5617 Departure Drive, Suite 109
Raleigh, NC 27616
Telephone: (919) 850-9199

VERIFICATION

MARIAN SALYER, first being duly sworn, deposes and says that she is the Defendant in the above-entitled action; that she has read the foregoing pleading and knows the contents therein, and that the same is true to her own knowledge, save and except for those matters and things stated herein upon information and belief, and as to such matters and things, she believes them to be true.

Marian Salyer
MARIAN SALYER

STATE OF NORTH CAROLINA
COUNTY OF ~~WAKE~~ Franklin

Sworn to and subscribed before me
this the 5 day of April, 2022
by Marian Salyer.

NOTARY PUBLIC

Print Name: Heather Haines

Signature: *Heather Haines*

My Commission Expires: 06/27/2026

