

**IN THE CIRCUIT COURT  
FOR SHELBY COUNTY, ALABAMA**

**HUBERT J. CHAPMAN, )**


**Plaintiff, )**

**Civil Action Number: DR-07-247-<sup>ol</sup>CDR**

**vs. )**

**TRACY D. CHAPMAN, )**

**Defendant. )**

  
20100121000019730 1/5 \$23.00  
Shelby Cnty Judge of Probate, AL  
01/21/2010 09:22:26 AM FILED/CERT

**ORDER**

This cause came on to be heard on the 6<sup>th</sup> day of November, 2009, on the Plaintiff's Petition for Rule Nisi and Petition to Modify. Both parties were present in court. Plaintiff appeared in court with his attorney of record, Rachel A. King, and the Defendant appeared pro se. After reviewing the testimony presented by each party, the Court finds that the following Order is due to be entered. It is therefore **ORDERED, ADJUDGED and DECREED** as follows:

**I. RELIEF ON PETITION TO MODIFY AND PETITION FOR RULE NISI**

1. The Plaintiff's Petition to Modify is granted in part.
2. The Defendant is found to be in contempt for failing and refusing to abide by this Court's Order, thereby causing unnecessary delay in the listing and sale of the marital residence.

**II. REAL PROPERTY; RESIDENCE**

1. The Plaintiff shall be awarded the sole authority to list, market and sell the marital residence located at 1679 South Pointe Drive, Birmingham, Alabama. The

Plaintiff shall be responsible for any and all indebtedness owed on said residence, including the first and second mortgage, all taxes and insurance, and shall indemnify and hold the Defendant harmless from payment of same. The Plaintiff shall also be responsible for any and all maintenance and repairs required for said residence. When said residence is sold, the proceeds of the sale shall be applied as follows:

a. First, to the payment of all sales costs, including, but not limited to, real estate commission, closing costs and related expenses;

b. Second, to the payment of the first mortgage with National City Bank and the home equity line of credit with First Financial Bank;

c. Third, to repayment to the Plaintiff for any and all reasonable and necessary expenses paid by him for repairs to said residence in order to put and to maintain the residence in marketable condition as required by the financial institution;

d. Fourth, to the Plaintiff's attorney, Rachel A. King, in the sum of \$6,100.00 for the attorney's fees incurred by the Plaintiff in this matter. Said sum shall be paid direct to Rachel A. King at 2491 Pelham Parkway, Pelham, Alabama 35124;

e. Fifth, the remaining proceeds from the sale shall be divided as follows:

i. First, if one-half of the sales proceeds is in excess of \$25,000.00, then the Defendant shall be entitled to one-half of the sales proceeds less the \$25,000.00 she will have already received pursuant to paragraph II, 2 below, if any;

ii. Second, the Plaintiff shall be entitled to any and all remaining sales proceeds.



If there is any deficiency owed on either the first mortgage or the equity line of credit, the Plaintiff shall be responsible for payment of said deficiency and shall indemnify and hold the Defendant harmless from payment of same.

2. Within thirty (30) days of entry of this Order, the Plaintiff shall pay to the Defendant the sum of Twenty-Five Thousand and no/100 Dollars (\$25,000.00). Simultaneously with receipt of said funds, the Defendant shall execute a quitclaim deed transferring her right, title in interest in said residence to the Plaintiff.

3. Within thirty (30) days of receiving the money pursuant to Paragraph II, 2 above, the Defendant shall vacate the residence and remove all items awarded to her in Paragraph 10 under the "Personal Property" Section of the Final Decree of Divorce, which was entered on February 19, 2008. The Defendant shall not cause any damage to the residence and/or the real property. If the Defendant causes any damage to the residence and/or real property from the date of entry of this Order to the date she vacates the marital residence, then the Defendant shall be solely responsible for the cost of repairs and shall indemnify and hold the Plaintiff harmless from payment of same. In the event the Defendant fails and/or refuses to pay for cost of said repairs, then the Plaintiff shall be entitled to recover the cost of said repairs pursuant to Paragraph I, 1(c) above. The Defendant shall ensure that the residence is cleaned and that the yard is tended before she vacates. The Defendant shall give the Plaintiff at least twenty-four (24) hours notice of the date she intends to vacate.

4. Beginning the date the Defendant vacates the marital residence, the Plaintiff shall be entitled to sole use and possession of said residence until such time that it is sold.

### III. UTILITIES

1. The Defendant shall be responsible for payment of the utility accounts for the marital residence from the date of entry of this Order, until the date she vacates pursuant to Paragraph II, 3 above. The Defendant shall have any and all utility accounts paid in full and current as of the date she vacates the residence. The Defendant shall sign any document necessary to transfer all utility accounts for the residence into the name of the Plaintiff effective the date the Defendant vacates the marital residence.

2. The Plaintiff shall be responsible for payment of the utility accounts for the residence from the date the Defendant vacates until such time that said residence is sold.

### IV. ALIMONY

1. Beginning the first day of the first month after the Defendant vacates the marital residence pursuant to Paragraph II, 3 above, the Plaintiff shall pay to the Defendant as periodic alimony the sum of Seven-Hundred, Fifty and no/100 Dollars (\$750.00) per month for a period of twelve (12) months.

2. Beginning the first day of the thirteenth month after the Defendant vacates the marital residence pursuant to Paragraph II, 3 above, the Plaintiff shall pay to the Defendant as periodic alimony the sum of Five-Hundred and no/100 Dollars (\$500.00) per month for a period of twelve (12) months.

3. The Plaintiff's obligation pursuant to Paragraphs IV, 1 and 2 above, shall terminate twenty-four months after entry of this Order, upon the Plaintiff's death, upon the Defendant's death, upon the Defendant's remarriage, or upon the Defendant's

commission of those acts contemplated by Ala. Code § 30-2-55 (1975), whichever shall occur first.

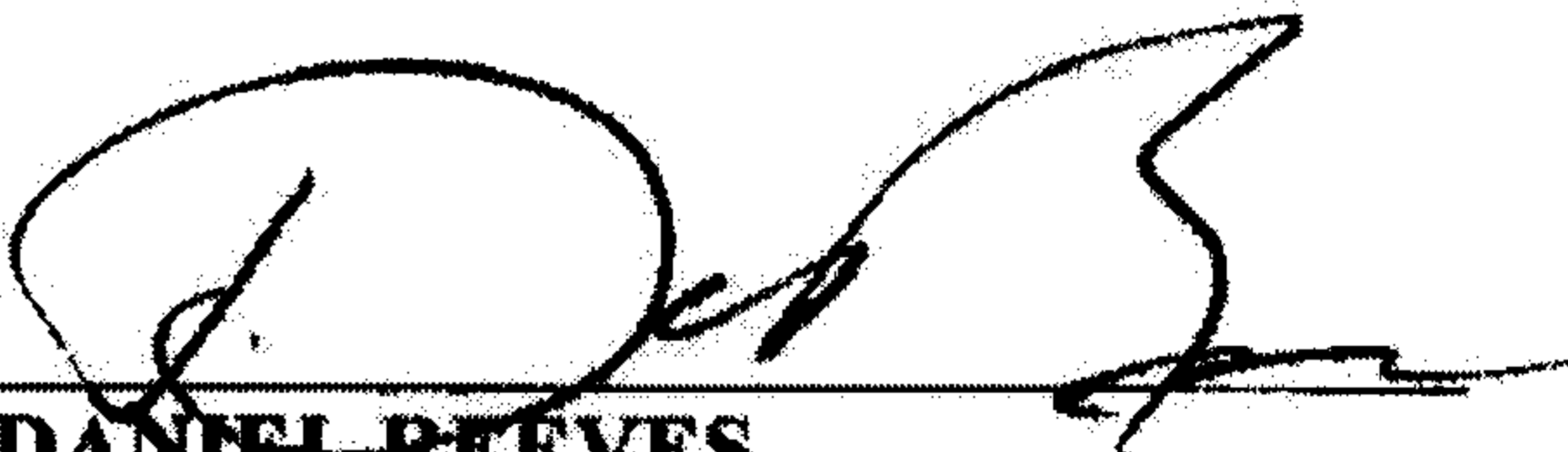
**V. ATTORNEY'S FEES AND COURT COSTS**


1. The Plaintiff is entitled to a judgment against the Defendant in the sum of \$6,100.00 for the attorney's fees incurred by the Plaintiff in this matter. Said sum shall be paid direct to the Plaintiff's attorney, Rachel A. King, from the sales proceeds from the marital residence, pursuant to Paragraph I, 1(d) above.
2. Court costs shall be taxed to the Plaintiff as paid.

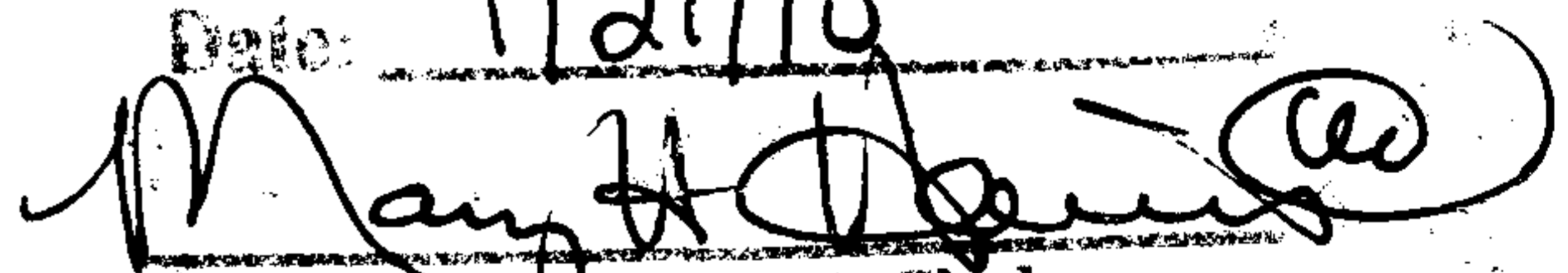
**VI. MISCELLANEOUS**

Except as set out hereinabove, all other issues contained in the Final Decree of Divorce entered on February 19, 2008, shall remain unaltered and in full force and effect.

**DONE and ORDERED** this the 17<sup>th</sup> day of November, 2009.

  
**G. DANIEL REEVES**  
Circuit Court Judge

  
20100121000019730 5/5 \$23.00  
Shelby Cnty Judge of Probate, AL  
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Certified a true and correct copy  
Date: 1/21/10  
  
Mary H. Davis, Circuit Clerk  
Shelby County, Alabama