

EDGAR H. FRANK,	:	IN THE COURT OF COMMON PLEAS OF
Plaintiff	:	LYCOMING COUNTY, PENNSYLVANIA
vs.	:	NO. 97-21,703
JOHANNA R. FRANK,	:	BIFURCATION
Defendant	:	

OPINION and ORDER

The matter presently before the Court is the Petition of Plaintiff Edgar H. Frank (hereinafter “Petitioner”), filed September 24, 1999, which requests this Court enter an Order of Bifurcation in this matter.

Bifurcation within 30 days after the report of the Master has been filed is authorized by the Divorce Code. 23 Pa.C.S. §3323(c). However, this section is not read to authorize bifurcation only after a Master’s report has been filed; a Court may make a determination concerning bifurcation before such report is filed. *Mosier v. Mosier*, 518 A.2d 843 (Pa.Super. 1986). It is the responsibility of the Court to decide whether to order bifurcation only after examining the advantages and disadvantages in each particular case. *Savage v. Savage*, 409 Hbg. 1998 (Pa.Super. 1999).

Argument was heard October 20, 1999. The Court notes that a determination whether to order bifurcation generally involves a proceeding on the record. *See Savage v. Savage, supra*. However, in the instant case counsel for the parties agreed no testimony was needed and requested this Court decide the matter based upon the Petition and statements of counsel at argument.

Petitioner filed a complaint in divorce November 20, 1997. Respondent Johanna R. Frank (hereinafter “Respondent”) filed an answer and counterclaim, seeking custody, alimony, equitable distribution, counsel fees and costs. The parties have lived apart since September 17, 1997.

Paragraph 6 of the Petition avers that the parties have been “very adversarial” throughout the litigation. The Court finds this to be an understatement. Several months ago, this Court presided over a custody trial, wherein primary physical custody of the parties’ three minor children was awarded to Respondent and Respondent was permitted to relocate to the state of Florida. The testimony presented at that trial clearly demonstrated to this Court that this is one of the most acrimonious marital dissolutions with which we have ever been involved. We believe termination of the marriage will best serve the emotional well being not only of both parties, but also the children.

Generally, the chief advantage to bifurcating a case is to accelerate the divorce, enabling the parties to “begin the task of restructuring their lives.” *Wolk v. Wolk*, 464 A.2d 1359, 1360 (Pa.Super. 1983). Another reason is so that the parties may realize potential tax advantages. *Id.* at 1361. Here, Petitioner (through his counsel) argues that the parties have been separated for two years. There is no chance of reconciliation; Petitioner is currently dating. Petitioner wishes to take advantage of the tax savings he would realize if bifurcation were ordered and to “get on with his life.”

Respondent (through her counsel) agrees there is no chance of reconciliation. Respondent’s concern, however, is that Petitioner has not yet provided the information necessary to fairly determine the property issues that will remain between the parties.

Respondent claims the information and assets are in the control of Petitioner and questions whether Petitioner will be less than forthcoming, absent the incentive of finalizing the divorce. Respondent points out there is nothing to prevent Petitioner from filing for a Master's hearing, at which point a final decree could be entered. Further, Respondent has additional concerns about current support issues, which her counsel raised at argument, namely alimony *pendente lite* and health insurance. As of the date of argument, Respondent had still not found employment in Florida.

This Court can see the advantages in bringing closure to these unhappy proceedings as swiftly as possible. Conversely, we find merit in the argument presented by Respondent's counsel. We believe the fairest solution to be as set forth in the following Order:

ORDER

AND NOW, this 24th day of November 1999, after consideration of the advantages and disadvantages of bifurcation in this case, bifurcation will be ordered under the following conditions:

1. Petitioner may file for a Final Decree in Divorce at the time of the Master's Hearing.
2. A Final Decree in Divorce shall be authorized as of the completion of testimony at the Master's Hearing.
3. Petitioner shall pay all necessary fees.
4. Petitioner shall, to the satisfaction of Respondent's counsel, provide all information and/or authorization to obtain all information necessary to enable Respondent to obtain the value of all marital assets. Such access shall be

sufficient to allow continued monitoring of such value through the date of the Master's hearing.

5. Petitioner shall not expend or in any way dispose of any marital asset without the express, written consent and agreement of Respondent, until such time as the Master's Order permits otherwise.
6. Respondent shall continue to remain as death beneficiary on all life insurance, retirement plans and other assets where Respondent is currently named as death beneficiary, in the event of Petitioner's death until such time as the Master's Report and Recommendation becomes final.
7. Petitioner shall maintain Respondent on existing health insurance, or the equivalent, until such time as the Master's Report and Recommendation becomes final, and/or as directed by the Master thereafter.
8. Alimony *pendente lite* shall continue until such time as the Master's Report and Recommendation becomes final, and/or as directed by the Master thereafter.

BY THE COURT:

William S. Kieser, Judge

cc: Court Administrator
Sean P. Roman, Esquire
William J. Miele, Esquire
Judges
Nancy M. Snyder, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)