

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA**

K.W.,	:	
Plaintiff	:	
	:	
v.	:	No. 04-20,215
	:	
R.L.W.,	:	
Defendant	:	DIVORCE

**OPINION**

This opinion addresses Wife’s exceptions to the Master’s report of May 8, 2007. Wife’s primary objection is to the Master’s division of the marital estate, granting 40% to Wife and 60% to Husband. Wife does not contest any of the Master’s findings of facts. She merely argues that the Master’s division is inequitable. The court agrees.

The Master based her decision primarily on her conclusion that Wife is “certainly in a stronger economic position than Husband, with significantly greater income, particularly while Husband is laid off.” Master’s report, p. 22. Wife, who is age forty-nine, is in the late stage of Parkinson’s disease. Wife was forced to leave her job as a kindergarten teacher in 2001, when she became too disabled to continue working. Her monthly income consists of \$1500 from a disability pension and \$1200 from Social Security. She receives an additional \$400 per month in derivative Social Security benefits for each of her two children. The Master found her total income to be \$3500 per month.

Husband, age forty-eight, is in good health and works as a laborer for Muncy Homes. The Master calculated Husband’s monthly income as \$1,925.99 when he is

working full time and \$1,508.08 from unemployment compensation during his layoff periods.

While Wife does have a larger income, \$800 of that is for the children, and will end in the foreseeable future. Moreover, she has a myriad of medical expenses, which are detailed throughout the Master's report. These include \$100 per month on doctor visits, and \$200-\$300 per month in prescription costs. She will also need to pay \$285.00 per month for COBRA benefits following the divorce. These expenses will continue, and may indeed increase as her disease progresses.

The details of Wife's disability are well documented by the Master on pp. 7-9. Wife is unable to perform basic household tasks. Currently, she lives with her paramour, who devotes himself almost entirely to helping Wife with the daily tasks of living. The paramour rarely works outside the home, and does not contribute to the rent. Without his presence in the residence, Wife would be forced to hire outside help, which would cost more than the paramour could earn. Wife is certainly fortunate to have the assistance of her paramour, but how long that arrangement will last is unknown. Wife is relatively young, and will be disabled for the rest of her life. If and when the arrangement with her paramour discontinues, Wife's expenses will rise significantly.

While Husband does not earn as much as Wife receives, he is able to meet his expenses. Furthermore, he is an able-bodied man in good health, who presumably will be able to work in some occupation until retirement age and even beyond, although he has raised doubts about how long he will be able to maintain his current employment in the construction business.

The Master aptly summed up the parties' financial situations on p. 22, when she stated, "Together with Wife's significantly higher income, she also has significantly higher expenses than Husband." The court concludes that Wife's disability more than compensates for her higher income, and for that reason, the marital estate should be split on 50/50 basis. That leaves Wife with a \$23,490.51 shortfall from the assets granted to her in the Master's Report. In addition, the court will grant Wife's exception #5 and grant her an additional two months of rental value to account for the two months between the Master's decision and this opinion. This \$980 will be added to the rental value already owed to Wife (\$3312.92). Therefore, Husband's total payment to Wife shall be \$27,783.43. Presumably, Husband will need to refinance or sell the marital residence to make this payment, and therefore the court will order the payment to be made by November 1, 2007.

The remainder of Wife's exceptions are dismissed.

**ORDER**

AND NOW, this \_\_\_\_\_ day of July, 2007, for the reasons stated in the foregoing opinion, the Master's Report of May 8, 2007 is hereby amended to state that Husband shall pay to Wife \$27,783.43 by November 1, 2007. In all other respects, the Master's report is affirmed.

BY THE COURT,

Date: \_\_\_\_\_

Richard A. Gray, J.

cc: Janice Yaw, Esq.  
Christina Dinges, Esq.  
Family Court  
Gary Weber, Esq.