

53053

MARITAL SETTLEMENT AGREEMENT

Vol. 180 Page 6773

THIS AGREEMENT, executed this 1<sup>st</sup> day of April, 1980, at Los Angeles, California, by and between ELAINE E. SMITH, hereinafter referred to as "Wife" and GARY LEE SMITH, hereinafter referred to as "Husband."

W I T N E S S E T H

WHEREAS, the parties hereto were lawfully married on March 6, 1962, at San Pablo Del Monte Tlax, Mexico, and ever since have been, and still are, husband and wife; and

WHEREAS, there are two (2) children the issue of said marriage, to wit, KEVIN JAMES SMITH, born December 23, 1970, and TRENA LEE SMITH, born January 21, 1962; and

WHEREAS, there is now pending in the Superior Court of the State of California, for the County of Los Angeles, an action for dissolution of marriage, entitled "ELAINE E. SMITH, Petitioner and GARY LEE SMITH, Respondent," and bearing Case No. D 005674; and

WHEREAS, it is the desire of the parties to effect a final and complete settlement of their rights with reference to each other, including their respective property rights, and to, for all time, except as otherwise provided herein, waive any

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5774

and all rights to support and maintenance from each to the other.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereby do agree as follows:

1. CHILD CUSTODY.

a. Wife shall have the sole custody of the two (2) minor children of the parties, KEVIN JAMES SMITH and TRENA LEE SMITH. Wife shall have physical possession of said minor children subject to the right of Husband to reasonable visitation rights at all reasonable times and places, provided that Husband gives reasonable notice to Wife.

2. CHILD SUPPORT.

a. Husband agrees to pay directly to Wife for the support and maintenance of the minor child, KEVIN JAMES SMITH, the sum of One Hundred Dollars (\$100.00), commencing November 1, 1979, payable on the first day of each month, for the nine (9) months of the school year, and One Hundred Fifty Dollars (\$150.00) per month during the summer months, June, July and August, payable on the first of each month. Husband's support obligation to said minor child shall be prorated according to the length

6775

of time said minor child stays with his father during the summer months. The amount of the payment Husband is obligated to make during said summer months will be calculated as follows:

The \$150.00 sum payable during said minor child's summer vacation shall be multiplied by a fraction, the numerator of which shall be the number of days said minor child stays with his father and the denominator of which shall be the number of days in that month during the summer. The figure obtained after multiplying said fraction times \$150 shall be the amount payable during that summer month to Wife for said child support.

b. It is further understood and agreed by the parties that Husband shall pay to Wife any increase in KEVIN JAMES SMITH's school costs in the ratio of 2 to 1. That is, Husband shall pay two-thirds ( $2/3$ ) of any such increase, payable on a monthly basis on the first of each month, and Wife shall pay one-third ( $1/3$ ) of any such increase.

c. It is further understood and agreed that each of the payments and obligations agreed to by Husband in Paragraph 2a hereof, are intended as and constitute payments for the support and maintenance of the minor child of the parties, KEVIN

JAMES SMITH, and that each and every said payment and obligation shall, at all times, be subject to modification, either by way of reduction or increase, by any court of competent jurisdiction, and that each and every of said payments and obligations shall, in any event, cease and terminate at such time as the said minor child attains the age of eighteen (18) years of age or becomes self-supporting.

3. SPOUSAL SUPPORT.

a. Each of the parties hereto waives his or her right to any and all spousal support from this date forward.

4. COMMUNITY PROPERTY.

a. The parties acknowledge and agree that their real property commonly known as 8958 Bartee Avenue, Arleta, California and legally described as follows:  
Lot 37, of Tract No. 17846, as per Map recorded in Book 500, Pages 18 to 20 inclusive of Maps, in the office of the County Recorder of Said County is and has been their community property, and the parties do further herewith affirm that the said property shall, for all purposes, be considered and treated as community property. Husband agrees that he will make the monthly payments upon the encumbrance thereon until the house is sold, in the sum of approximately One Hundred Fifty Dollars (\$150.00) per month

to the holder of the first mortgage, Wilshire Mortgage Corporation, and approximately One Hundred twenty-five Dollars (\$125.00) per month to the holder of the second mortgage, Pacific Plan of California. 6227

b. The parties agree that Husband shall make reasonable efforts to sell the aforementioned California residence by July 31, 1980. In the event that said property is not sold by that date, the parties agree that the property shall be listed with a licensed real estate broker for the purpose of its sale at the earliest practicable date.

c. In the event said residence is sold for a sum in excess of Seventy Thousand Dollars (\$70,000.00), Wife shall reimburse Husband for a maximum of one-half (1/2) of One Thousand Five Hundred Dollars in improvements, which is Seven Hundred Fifty Dollars (\$750.00). Said reimbursement is for costs of improvements incurred after January 1, 1979.

d. In the event that the California residence has not been sold prior to July 31, 1980, it is understood and agreed by the parties that Husband shall continue making said monthly payments upon the encumbrances heretofore mentioned upon the California residence.

e. Upon said sale of the California residence, it is understood and agreed that the proceeds will be disbursed in the following order of priority:

f. Should husband so desire to purchase from wife her interest in said family residence then in that event, he shall do so before July 31, 1980. The amount husband shall pay to wife for said repurchase shall be determined pursuant to Paragraph 4, g, below, wherein husband and wife each agree to obtain an independent appraiser to determine the market value.

g. In the event that husband agrees to exercise his right to purchase on or before July 31, 1980, wife's interest in the said residence, then in that event, husband and wife agree to obtain an independent appraiser to ascertain the market value of said real property.

1. The payment of any and all balances due upon the present encumbrance upon said real property to the holder of the first mortgage, Wilshire Mortgage Corporation, P. O. Box 1951, Glendale, California 91203, loan number 3031-351485, in the approximate sum of Fourteen Thousand Dollars (\$14,000.00);

2. The payment of any and all balances due to Pacific Plan of California, Van Nuys, California, in the approximate sum of Fifteen Thousand Dollars (\$15,000.00), together with any and all prepayment penalty, costs of sale, including escrow fees, real estate commissions, and the payment of any and all unpaid real property taxes against said real property;

3. The payment to Wife of the sum of Three Hundred Dollars (\$300.00) as consideration for Wife's agreement to affirm the motor vehicles described in paragraphs 6a1, 6a2, and 6a3 as Husband's separate property, if said sum has not been received by Wife from Husband prior to June 31, 1980.

4. The payment to Sears, Roebuck & Company of the sum of approximately Two Hundred Dollars (\$200.00) in full payment on account;

5. The payment of additional attorney's fees and costs by Wife to her attorney, Barry Bernstein & Associates, 6255 Sunset Boulevard, Suite 1116, Los Angeles, California 90028;

h. The parties agree that their real property in Oregon, legally described as follows:

Lot 22 Block 7 of Oregon Pines, as same is shown on plat filed June 30, 1969 duly recorded in the office of the County Recorder of said County

is and has been their community property, and the parties do further herewith affirm that the said property shall, for all purposes, be considered and treated as community property.

i. Husband agrees to convey his interest in the Oregon property hereinabove referred to, to Wife, concurrently with the signing of this Marital Settlement Agreement.

j. Wife agrees that should Husband so desire within ninety (90) days from the date hereof to establish a trust of said Oregon property for the benefit of the two (2) minor children, KEVIN JAMES SMITH and TRENA LEE SMITH, that Wife will cooperate with Husband and execute whatever documents are necessary to effectuate such trust with said children as co-beneficiaries. In the event said trust is not established within said ninety (90) day period, Wife shall be under no obligation to establish such a trust and shall hold title to the Oregon property.

6780

k. Wife agrees, in the event of sale of said Oregon Pines property, to divide the proceeds of said sale as follows:

One-half (1/2) to ELAINE SMITH;

One-quarter (1/4) to KEVIN JAMES SMITH;

One-quarter (1/4) to TRENA LEE SMITH.

1. In the event wife seeks refinancing of said property, then the interests of each of the parties in said equity of the property shall be as follows:

One-half (1/2) interest to ELAINE SMITH;

One-quarter (1/4) interest to TRENA LEE SMITH;

One-quarter (1/4) interest to KEVIN JAMES SMITH.

5. WIFE'S SEPARATE PROPERTY.

a. The parties hereby agree that the following assets are now the separate property of Wife and Husband does hereby relinquish any and all right, title, interest or claim therein or thereto:

1. That certain piano; and

2. That certain 1978 Toyota Celica GT, California license plate number WKS 952.



6781

6. HUSBAND'S SEPARATE PROPERTY.

a. In consideration of the payment to Wife by Husband of the sum of Three Hundred Dollars (\$300.00), Wife acknowledges that the following assets are now the separate property of Husband and Wife does herewith relinquish any and all right, title, interest or claim therein or thereto:

1. That certain Mercury Station Wagon, California license plate number 255 GJO.

2. That certain 1966 Ford Mustang, California license plate number THY 896.

3. That certain 1976 Ford Courier Truck, California license plate number 34384X.

7. WARRANTIES AND REPRESENTATIONS.

a. Each of the parties hereby warrants and represents to the other that he or she is not now possessed of any property of any kind or description whatsoever, whether community or separate property, other than such property as is specifically listed in paragraphs 4a, 4f, 5a and 6a and that neither party has made, without the knowledge or consent of the other, any gifts or transfers of any property from the commencement of their marriage to the date hereof.

6782

b. If it shall hereafter be determined by any Court of competent jurisdiction that either party is now possessed of any property not set forth herein, or that either has made, without the knowledge or consent of the other, any gifts or transfers of such property, said party agrees to pay the other, upon demand, a sum equal to one-half (1/2) of the fair market value of such property.

c. Each party warrants and represents to the other that he or she has not incurred any community debts which remain unpaid other than those listed hereinabove. In the event that a community bill not mentioned in this Marital Settlement Agreement should arise, then in that event, each party shall pay for one-half of that obligation.

8. MUTUAL RELEASES.

a. Except as otherwise provided herein, each of the parties releases the other from any and all liabilities, debts or obligations of every kind or character that have been, or will be incurred and for any and all claims and demands, including all claims that either one may have upon the other for support and maintenance, by way of alimony or otherwise, it being understood that by this Agreement the parties intend to settle all aspects of their marital rights.

6783

9. WAIVERS.

a. Each of the parties herewith waives any and all right to inherit the estate of the other at his or her death, or to claim any family allowance or probate homestead for such party or to act as personal representative upon intestacy of the other's estate.

10. HOLD HARMLESS CLAUSE.

a. Except as otherwise provided herein, each of the parties agrees to make all payments upon any and all obligations incurred by said party from and after November 1, 1978, and each further agrees that if any claim, action or proceeding shall hereafter be brought, seeking to hold the other liable on account of any such obligation, he or she will, at his or her sole expense, defend the other against any such claim or demand and will hold the other harmless therefrom.

11. INCOME TAX RETURNS.

a. Husband and Wife agree to execute joint federal and state income tax returns for the calendar years 1974 through and including 1977 within sixty (60) days from the date hereof. It is further agreed between the parties hereto that if a refund is obtained pursuant to the federal and/or state income tax return(s), then each party shall be entitled to one-half (1/2) of said refund. In the event that there is an

income tax liability on any or all of said income tax returns, 6784  
then each party is to pay one-half (1/2) of such liability  
upon the filing of said return.

12. MISCELLANEOUS.

a. The parties acknowledge and agree that each has been represented by independent counsel of his or her own choosing with respect to this Agreement or if Husband does not obtain his own independent counsel, he does so freely and voluntarily, having been advised by counsel for Wife of the advisability of his obtaining his own independent counsel.

b. Each party acknowledges and agrees that all of the provisions hereof have been fully explained to each of them by their respective counsel or in the event Husband does not seek independent counsel, by Wife's counsel, and each acknowledges and agrees that they understand all of said provisions; that they understand that the provisions hereof with respect to support and maintenance of the minor children of the parties are, at all times, subject to modification by any court of competent jurisdiction; that they understand that each party does, by this Agreement, for all times waive any and all right or claim for support, maintenance, alimony, or the like, for the other party; that no warranties or representations have been made by either party or by their counsel other

than as expressly set forth herein.

6785

13. ATTORNEY'S FEES.

a. Wife has agreed to pay to her attorney of record, Barry Bernstein & Associates, upon the sale of the aforementioned California residence, the balance due for services rendered and costs in connection with the preparation of this Marital Settlement Agreement and the action for dissolution of marriage of the parties now pending.

b. In the event that the said California residence is not sold on or before June 31, 1980, it is understood and agreed that Wife shall then pay her attorney, Barry Bernstein & Associates the balance due for fees and costs.

14. FURTHER INSTRUMENTS.

a. Each of the parties hereto covenants and agrees on demand, to execute and other or further instruments necessary or convenient to carry out the provisions of this Agreement. This Agreement is entire and can only be amended, altered or modified by an agreement, in writing, signed by both of the parties, and this Agreement shall be binding upon and inure to the benefit of each of the parties, their respective heirs, legatees, devisees, assignees, executors, administrators and successors in interest. This Agreement shall be effective from and after the date of execution hereof, and it may, if desired, be submitted to the Court in the action now pending between the

6786

parties for approval of said Court, but this Agreement shall not depend for its effectiveness on such approval nor be affected thereby.

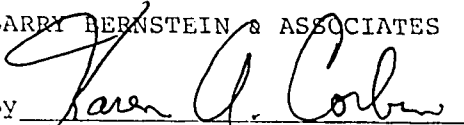
  
ELAINE E. SMITH, Wife

  
GARY LEE SMITH, Husband

APPROVED AS TO FORM

AND CONTENT:

BARRY BERNSTEIN & ASSOCIATES

By   
KAREN A. CORBIN  
Attorney for ELAINE E. SMITH

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS



On this 1 day of April, 1980,  
before me, the undersigned Notary Public,  
personally appeared ELAINE E. SMITH,  
known to me to be the person whose name  
is subscribed to the within instrument  
and acknowledged that she executed the  
same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my  
hand and official seal.

Carol M. Asakura

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS



On this 1 day of April, 1980,  
before me, the undersigned Notary Public,  
personally appeared GARY LEE SMITH,  
known to me to be the person whose name  
is subscribed to the within instrument  
and acknowledged that he executed the  
same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my  
hand and official seal.

Carol M. Asakura

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 10th day of  
April A.D., 19 80 at 2:01 o'clock P M., and duly recorded in Vol. M8C  
of Deeds on Page 6773.

FEE \$52.50

WM. D. MILNE, County Clerk  
By Bernice A. Detach Deputy

*Return to  
Elvyn Denton  
4 Deeds  
6255 Stuart Blvd  
#1176  
Los Angeles, Ca 90028*