

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY  
 2 In the Matter of the Marriage of )

3 GAYLE ELIZABETH SMITH,  
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No. 81-1333-NJ-3

DECREE OF DISSOLUTION  
 OF MARRIAGE

and

JAMES R. SMITH,

Respondent.

This matter coming on for hearing before the above captioned court, petitioner appearing in person and by her attorney, Alan B. Holmes, respondent having signed an acceptance of service which is on file herein, and respondent having made no appearance was found to be in default; it is

CONSIDERED, ORDERED AND DECREED:

1. Effective the 27 day of September, 1981, or upon the date of the final determination of any appeal taken in this cause, whichever is the latter, the marriage of the parties shall terminate and petitioner shall have an absolute decree of dissolution from respondent without further action of either party.

2. Any Will of either party antedating the decree hereof is hereby revoked, unless its terms express a contrary intention.

3. Neither party is entitled to cohabit with the other.

4. If either party should die before said date, the marriage shall terminate immediately before such death unless an appeal is then pending.

5. Petitioner is awarded the care, custody and control of the parties' minor child, NATALIE SUSAN SMITH, born February 10,

Page 1-Decree

86 OCT 15 PM 12 41

HOLMES & JAMES P.C.

837 E. MAIN  
 MEDFORD, OREGON 97501  
 TELEPHONE 778-5121

CH 22  
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1 1973.

2 6. Respondent shall pay to petitioner through the Department  
3 of Human Resources, Support Management Unit, P. O. Box 14506, Salem,  
4 Oregon 97308, the sum of \$250 per month, plus the administrative  
5 collection fee, as and for the support of the minor child, com-  
6 mencing on the 25 day of August, 1981, and continuing on the same  
7 day of each month thereafter until the child shall attain the age  
8 of 21 years and thereafter so long as the child shall be a child  
9 attending school, as determined by ORS 107.108(4). Petitioner  
10 shall notify respondent if said child ceases to attend school pur-  
11 suant to ORS 107.108.

12 7. Petitioner is hereby granted a judgment against respondent  
13 in the sum of \$20,000, which judgment shall bear interest at the rate  
14 of 9% per annum from the date of the decree entered herein, and all  
15 sums shall be due and payable in five years from the date of this  
16 decree. Respondent shall have the right to prepay the judgment at  
17 any time prior to the expiration of five years from the date hereof,  
18 and in the event respondent desires to refinance any of the property  
19 he is awarded under this decree, petitioner shall cooperate in every  
20 way insofar as this judgment lien is concerned so as not to inhibit  
21 any such refinancing, so long as the security of the judgment is not  
22 prejudiced.

23 8. Petitioner and Respondent have entered into a Marital  
24 Settlement Agreement, dated July 15, 1981, which agreement is  
25 attached hereto as Exhibit "A" and is incorporated as a part of  
26 this decree.



18787

Relevant data is as follows:

Petitioner  
Residence  
Birth Date  
Social Security No.  
Maiden Name  
Former Married Name

Gayle Elizabeth Smith  
2934 Taylor Road, Central Point, OR 97502  
July 6, 1939  
540-44-5650  
Childress  
Pagel

Respondent  
Residence  
Birth Date  
Social Security No.

James R. Smith  
2090 Boes Road, Central Point, OR 97502  
May 25, 1939  
554-54-6245

Date of Marriage  
Place of Marriage

July 4, 1970  
Washoe County, Nevada

Children of Marriage

Natalie Susan Smith, 2/10/73

Children of Prior  
Marriage

Sean Michael Smith, 7/1/67  
James Robert Smith, 20  
(children of respondent)

Dated this 27th day of July, 1981.

L.P. Newman  
Circuit Court Judge

HOLMES & JAMES P.C.  
937 E. MAIN  
MEDFORD, OREGON 97501  
TELEPHONE 778-8131

This instrument is a correct copy of  
the original on file in this office.

OCT 8 1986

Circuit Court - Trial Court Administrator  
STATE OF OREGON - JACKSON COUNTY

By Linda Mattson

RECEIVED  
AND  
FILED  
JUL 23 PM 1:51  
JACKSON COUNTY CLERK  
DOCKERY

This instrument is a correct copy of the  
original on file in this office.

WILBENE TERRY, Jackson County Clerk  
Clerk of the Circuit Court  
State of Oregon - County of Jackson  
By [Signature], Deputy



1 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY  
 2 In the Matter of  
 3 the Marriage of )  
 4 GAYLE ELIZABETH SMITH, ) No. 81-1333-NJ-3  
 5 Petitioner, ) MARITAL SETTLEMENT AGREEMENT  
 6 and )  
 7 JAMES R. SMITH, )  
 8 Respondent. )  
 9

10 THIS MARITAL SETTLEMENT AGREEMENT entered into the 15 day of  
 11 July, 1981, by and between GAYLE ELIZABETH SMITH, herein called  
 12 "Gayle", and JAMES R. SMITH, herein called "Jim",  
 13

W I T N E S S E T H :

14 The parties hereto are husband and wife, and certain difficulties  
 15 have arisen between them to the extent that the parties have separated  
 16 one from the other and that Gayle has commenced a suit for dissolution  
 17 of marriage in the Circuit Court of the State of Oregon, for Jackson  
 18 County, Circuit Court Case No. 81-1333-NJ-3, and said parties are un-  
 19 able to reconcile their difficulties and now desire to make and enter  
 20 into a settlement of their property rights and all interests arising  
 21 from said marriage.

22 NOW, THEREFORE, in consideration of the promises and agreements  
 23 hereinafter expressed, all of which shall be fully and faithfully kept  
 24 by each of the parties hereto, it is hereby mutually covenanted and  
 25 agreed as follows:

26 1. JURISDICTIONAL BACKGROUND: The parties acknowledge that  
 they were married on July 4, 1970, in Washoe County, Nevada, and ever



1 since that time have been and now are husband and wife; that there has  
2 been one child born of the marriage, namely, NATALIE SUSAN SMITH, born  
3 February 10, 1973; that Gayle was a bonafide resident and inhabitant of  
4 Jackson County, Oregon, for a period of more than six months prior to  
5 the commencement of the above mentioned suit for dissolution of mar-  
6 riage; and that there is no other domestic relations suit pending in  
7 any other court between the parties.

8 2. CUSTODY OF CHILD: The parties hereto agree that it is in  
9 the best interests of the minor child that Gayle have her care, custody  
10 and control until said child reaches the legal age of majority or other-  
11 wise becomes emancipated, which control and custody shall be subject to  
12 the reasonable rights of visitation in Jim.

13 3. CHILD SUPPORT: Jim shall pay, through the Department of  
14 Human Resources, Support Management Unit, P. O. Box 14506, Salem,  
15 Oregon 97310, for the support of said minor child the sum of \$250 per  
16 month, plus the collection charge of said department, commencing the  
17 25 day of August, 1981, and monthly thereafter until said child  
18 attains the age of majority or becomes otherwise emancipated and fur-  
19 ther, until said child reaches the age of 21 if regularly enrolled in  
20 school pursuant to the provisions of ORS 107.108. Gayle shall notify  
21 Jim if Natalie ceases to attend school pursuant to ORS 107.108.

22 4. DEPENDENCY EXEMPTION: Gayle shall be entitled to claim Nata-  
23 lie as a dependent for state and federal tax purposes through the calen-  
24 dar year 1987, and thereafter so long as he shall make said support  
25 payments as provided for herein promptly and when due, Jim shall be  
26 entitled to claim Natalie as a dependent for state and federal tax



1 purposes.

2 5. INSURANCE: Jim shall maintain in force the existing medical  
3 and hospital insurance policy presently in force for the benefit of  
4 Natalie so long as she is a dependent child or until such time as a sup-  
5 port obligation as above provided is no longer due, and in the event of  
6 change of employment, insurance of comparable benefits. In the event  
7 any such policy or policies shall lapse, Jim shall be responsible  
8 for such medical expenses as are incurred by said child, and to the  
9 extent thereof the same would be covered under a medical and hospital  
10 insurance policy comparable to that in existence at the time of exe-  
11 cution of this agreement. The excess doctor and hospital expenses be-  
12 yond that which are or would be provided by insurance aforesaid shall  
13 be assumed by Gayle. Through the calendar year 1986 Gayle shall be  
14 responsible for all dental expenses incurred on behalf of Natalie. Com-  
15 mencing with the calendar year 1987, Jim shall assume and pay all dental  
16 expenses incurred on behalf of Natalie.

17 Jim shall continue in force his existing life insurance policy  
18 with Mutual of Omaha Life Insurance, #E22BA-60670255, without modifi-  
19 cation of beneficiary thereof and without encumbrance thereon, so long  
20 as any support obligation is owed by him on behalf of Natalie. Jim  
21 shall have the right to modify or change the beneficiary on said policy  
22 in any manner he may see fit at such time as no support obligation is  
23 owing on behalf of Natalie. A certificate evidencing the existence  
24 of such policy shall be provided to Gayle.

25 6. SPOUSAL SUPPORT: Gayle waives and relinquishes any claim to  
26 spousal support from Jim.



1  
2 7. PERSONAL PROPERTY: The parties have equitably divided their  
3 furniture, furnishings and fixtures to their satisfaction. Gayle shall  
4 be entitled to the interest of the parties in a 1979 Ford Fairmount  
5 stationwagon, subject to its encumbrance which she shall assume and  
6 hold Jim harmless therefrom. Jim shall be entitled to the interest of  
7 the parties in a horse trailer, camper and 1978 Ford 4-wheel drive  
8 pickup truck and his tools. Each party shall be entitled to their own  
9 miscellaneous effects.

10 The parties have satisfactorily agreed upon a disposition of live-  
11 stock, whereby Gayle shall become owner of that certain Angus steer  
12 named Ernie which she may leave and which shall be cared for to the same  
13 degree as any other remaining cattle on the property of Jim, although  
14 Jim shall not be an ensuror thereof, and the remainder of the cattle  
15 and livestock shall belong to Jim.

16 8. REAL PROPERTY: Gayle shall be entitled to all of the interest  
17 of the parties in and to that certain real property near Gold Hill,  
18 Oregon, described in Exhibit "B" attached hereto and incorporated  
19 herein by reference, free and clear of any right, title or interest  
20 or claim of Jim therein.

21 Jim shall be entitled to all of the interest of the parties in  
22 that real property described in Exhibit "A" attached hereto and incor-  
23 porated herein by reference, subject to any obligation owing thereupon,  
24 including that owed to the Oregon Department of Veterans Affairs, and  
25 as to all of such obligations he shall assume and hold Gayle harmless.  
26 Jim shall be entitled to all of the interest of the parties in  
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Page



1 and to that certain real property in Klamath County, Oregon, described  
2 in Exhibit "C" attached hereto and incorporated herein by reference,  
3 subject to any debt existing thereto, including that to Family Sav-  
4 ings and Loan, Los Angeles, California, and as to all obligations en-  
5 cumbering said property he shall assume and hold Gayle harmless there-  
6 from.

7 9. INDEBTEDNESS: Other than loans encumbering the real property,  
8 Jim shall assume and pay and hold Gayle harmless from the business  
9 VISA account, the obligation to Sears, Roebuck & Co., the existing  
10 loan from his mother and the obligation to Production Credit Associa-  
11 tion. Gayle shall assume and hold Jim harmless from the joint VISA ac-  
12 count and to any loan effected through U-Lane-O Federal Credit Union.

13 10. JUDGMENT: To equalize the division of property herein and  
14 not as spousal support, Gayle shall be granted a judgment against Jim  
15 in the sum of \$20,000, which judgment shall bear interest at the rate of  
16 9% per annum from date of any decree entered herein and all due and  
17 payable in five years after the date of entry of any decree. Jim shall  
18 have the right to prepay the judgment at any time and in the event he  
19 desires to refinance any of the property he is entitled to receive under  
20 the provisions of this agreement, Gayle shall cooperate in every way  
21 insofar as the judgment lien herein provided is concerned so as not to  
22 inhibit any such refinancing, so long as the security of the judgment  
23 is not prejudiced.

24 11. MUTUAL RELEASE: Except as otherwise provided in this agree-  
25 ment, the provisions hereof are intended and agreed to be in full set-  
26 tlement, satisfaction, release and compromise of all claims and rights



1 and demands which either party may have or claim now or in the future  
2 against the other party or against any property belonging to the other  
3 party and henceforth, neither party shall have any interest whatsoever  
4 in or to any property, real or personal, of the other party, whether  
5 now owned by the other party or hereinafter acquired, and each party  
6 expressly waives and relinquishes any rights or demands which either  
7 may have or claim against the other or against the property of the  
8 other whether arising out of the marital relationship or otherwise.

9 12. INCORPORATION INTO DISSOLUTION DECREE: In case a decree  
10 of dissolution is hereafter entered, it is agreed that the court in  
11 any such suit for dissolution may enter a decree ratifying and con-  
12 firming and including this agreement and settling the property rights  
13 of the parties hereto in accordance with this agreement, and an exe-  
14 cuted copy of this agreement may be presented to the court in any such  
15 suit and shall constitute a stipulation of the parties in accordance  
16 herewith.

17 13. LITIGATION FEES: In the event suit, action or other pro-  
18 ceedings are instituted by either party against the other to enforce  
19 any of the provisions of this agreement or for the breach thereof, the  
20 prevailing party in such suit or action shall be entitled to recover,  
21 in addition to the costs and disbursements provided by statute, such  
22 sum as attorney's fees in such suit, action or proceeding as the court  
23 may adjudge reasonable.

24 14. EXECUTION OF INSTRUMENTS: The parties hereto do hereby cove-  
25 nant and agree to make, execute and deliver any and all necessary  
26

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Page

6-MARITAL SETTLEMENT AGREEMENT



1 instruments to carry into force and effect the terms, conditions and  
2 the provisions of this agreement.

3 15. BINDING EFFECT: This agreement shall be binding upon and  
4 inure to the benefit of the parties hereto, their respective heirs,  
5 personal representatives and assigns.

6 16. WAIVER: The failure of either party to insist upon strict  
7 performance of any provision of this agreement shall not be deemed a  
8 waiver of any right to insist upon strict performance of such provision  
9 or of any other provision of this agreement.

10 17. DISCLOSURE: Each of the parties expressly certifies that  
11 each of them has entered into this agreement upon mature considera-  
12 tion and upon the opportunity of having the advice of separate counsel.  
13 The parties acknowledge that Gayle is represented throughout these pro-  
14 ceedings by the firm of Holmes, James, Galpern & McCollum, P.C. While  
15 Jim chose to be represented initially, he has declined further repre-  
16 sentation, but has been given a full and complete opportunity to ex-  
17 amine and discuss with counsel of his choice the legal ramifications  
18 and implications of this agreement. Jim recognizes and acknowledges  
19 that no member of Holmes, James, Galpern & McCollum, P.C., has advised  
20 him concerning the propriety or effect of any provision hereof, and  
21 that said firm of attorneys has at all times acted on behalf of, and  
22 for Gayle. The parties further expressly certify that consent to the  
23 execution of this agreement has not been obtained by duress, fraud, or  
24 undue influence of any person; and no representations of fact have been  
25 made by either party to the other except as herein expressly set forth;  
26 that each party has had full access to the books, records and files of

Page 7-MARITAL SETTLEMENT AGREEMENT



1 the other and that each has full knowledge as to the business and af-  
 2 fairs of the other, and the nature, extent and value of the separate  
 3 property of the other and the community property of both parties, if  
 4 any; and that this agreement is fair and reasonable under all present  
 5 and future circumstances.

6 18. ATTORNEY'S FEES: Each party shall be responsible for his  
 7 or her own attorney's fees and costs incurred in these proceedings.

8 IN WITNESS WHEREOF, the parties hereto have executed this agree-  
 9 ment all as of the day and year first above written.

10 Gayle E. Smith  
 11 Gayle Elizabeth Smith  
 12 James R. Smith  
 13 James R. Smith

14  
 15 STATE OF OREGON )  
 16 County of Jackson ) ss.  
 17 July 14, 1981 )

18 Personally appeared GAYLE ELIZABETH SMITH and acknowledged the  
 19 foregoing instrument to be her voluntary act and deed. Before me:

20 Maureen E. Dancy  
 21 Notary Public for Oregon  
 22 My commission expires: 8-27-84

23 STATE OF OREGON )  
 24 County of Jackson ) ss.  
 25 July 15, 1981 )

26 Personally appeared JAMES R. SMITH and acknowledged the foregoing  
 instrument to be his voluntary act and deed. Before me:

Maureen E. Dancy  
 Notary Public for Oregon  
 My commission expires: 8-27-84



EXHIBIT "A"

18796

TRACT C: Beginning at the northwest corner of Donation Land Claim No. 52 in Township 37 South, Range 2 West of the Willamette Meridian in Jackson County, Oregon; thence East 205.19 feet along the north boundary line of said Claim; thence South, along the center-line of Rogue River Valley Irrigation District's canal, a distance of 919.0 feet; thence North  $89^{\circ} 09' 40''$  West 204.74 feet to intersect the west boundary line of said Claim (being the east boundary line of Donation Land Claim No. 45, said Township and Range); thence North, along said Claim line 919.0 feet to the point of beginning.

Code 6-28, Account #1-19912-0, Map #372W9A, Tax Lot #400



EXHIBIT "B"

18797

All that portion of the following described tract lying Southerly of the southerly right of way line of State Highway 234, to-wit:

Beginning at a point 330 feet West of the Northeast corner of Government Lot 5 in Section 10, Township 36 South, Range 3 West of the Willamette Meridian, Jackson County, Oregon; thence South, 1376.0 feet, more or less, to the Northeasterly line of tract described in Document No. 73-12190, Official Records of Jackson County, Oregon; thence North  $37^{\circ} 08'$  West, along said line, to a point on the Southerly right of way line of State Highway No. 234, which point is 530.0 feet West of the East line of said Section 10; thence North, 1120.0 feet, more or less, to the North line of said Lot 5; thence East, along said line, 200.0 feet to the point of beginning.



18798

EXHIBIT "C"

Lot 25, Block 1, Mountain Lakes Homesites, Klamath County,  
Oregon.

*Ret. Michael Brian, Atty at Law  
Box 670  
Medford, Ore  
97501*

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_ the 15th day  
of October A.D., 19 86 at 12.41 o'clock P.M., and duly recorded in Vol. 186  
of \_\_\_\_\_ of Misc. on Page 18785.

Evelyn Biehn, County Clerk  
By [Signature]

FEE \$57.00