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6 CASE #: 18-3-05993-7 SEA

7 **IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY**

8 IN RE THE MARRIAGE OF:

NO. 18-05993-7 SEA

9 SONYA K. DELANCE,

10 Petitioner,

**PETITIONER'S MOTION FOR AN
ORDER ENFORCING DECREE
OF DISSOLUTION AND OTHER
RELIEF**

11 and

12 MICHAEL A. DELANCE,

13 Respondent.

14 **I. RELIEF REQUESTED**

15 The Petitioner, Sonya K. DeLance, by and through her attorney of record, and moves
16 the Court for an Order requiring the Respondent, Michael A. DeLance ("Michael"), appear
17 and show cause why the Decree of Dissolution entered herein on June 26, 2019 (the
18 "Decree") should not be enforced as follows:

19 1.1 The Court should enforce the Decree by directing payment of the Woodway
20 Home proceeds currently held in escrow by a third party to Sonya DeLance
21 in the amount of \$1,649,167.84 and to Michael DeLance in the amount of
22 \$162,713.56.

23 1.2 The Court should enter a judgment in favor of Sonya DeLance against
24 Michael DeLance in an amount equal to all costs and attorney's fees incurred
25 in Sonya's efforts to enforce the Decree, including all escrow fees and this
26 Motion as required by the Decree.

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II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

The parties were married on November 10, 2008 and have two dependent children together, Presley (age 8) and Ella (age 7). The parties separated on September 17, 2018. After two long days in mediation with Judge Fleck, the parties entered into a comprehensive agreement—the Separation Contract & Property Settlement Agreement, effective March 20, 2019 (the “PSA”). A final Decree of Dissolution was entered by agreement on June 26, 2019, incorporating the terms of the PSA.

The PSA required certain payments by Michael DeLance to Sonya DeLance, with specific due dates for each payment. There is no dispute Michael has not made payment for the final installment of the Cash Equalizing Payment owed to Sonya by August 31, 2019, in the amount of \$562,398.

The PSA also required the parties sell the Woodway Home and divide those proceeds—60% to Sonya and 40% to Michael. The family home sold and closed on August 30, 2019, with proceeds of \$1,813,733.31 which were deposited to a third-party escrow account.

Michael disputes the amount of proceeds owed to Sonya because he does not agree Sonya should receive \$562,398 from Michael’s share of the family home proceeds in satisfaction of the outstanding Cash Equalizing Payment.

The PSA states, in pertinent part,

If the Husband has not paid the balance of the outstanding settlement at the time the Woodway Home sale closes, Wife shall be paid from Husband’s share of home proceeds.

Despite this clear language, Michael refuses to authorize these funds be distributed to me from his share of the Woodway home proceeds.

1 **A. LIABILITIES TO BE PAID BY THE HUSBAND**

2 Pursuant to the PSA, Michael was awarded certain liabilities which are held jointly or
3 in Sonya’s name alone, as follow as follows:

4 Land Rover Car Loan – Land Rover Financial \$50,350
5 RV Loan \$77,781

6 PSA, Ex. A-1. The PSA further states,

7 Each party agrees to assume, pay, and hold the other harmless respecting any liens
8 or obligations owing on property awarded, respectively, to him or her by the terms
9 of this Property Settlement Agreement, and each party agrees to use best efforts to
 have the other removed as obligor thereon within 30 days of signing this Agreement.

10 PSA, pg. 3.

11 The Land Rover vehicle secured by the debt above was awarded to Sonya and is her
12 daily driver. The loan is in her name alone. The RV secured by the debt above was
13 awarded to Michael and the loan is in both parties’ names.

14 Michael has not removed Sonya’s name from either debt as of the filing of this
15 motion, which is well beyond the 30 days required by the PSA. Furthermore, Sonya has
16 received notices with respect to past due payments on the Land Rover, potentially impacting
17 her credit and leaving her in fear of repossession for the car in her primary care. Sonya does
18 not receive mail with respect to the RV and is uncertain whether Michael has kept those
19 payments current.

20 **B. ENFORCEMENT EXPENSES.** In the event of default in performance of any term
21 of the PSA, the defaulting party is required to pay all expenses, including but not limited to
22 reasonable attorney’s fees, incurred in connection with such enforcement.

23 Michael should be ordered to pay Sonya’s attorney’s fees, costs, and all escrow
24 expenses as a result of: 1) Michael’s failure to pay the Cash Equalizing Payment when due, nor
25 allow such Cash Equalizing Payment be made from his share of the Woodway home proceeds
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1 as required by the PSA; and 2) his failure to remove Sonya's name from the Land Rover and
2 RV loan within 30 days of signing the PSA.

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4 **III. ISSUES PRESENTED.**

5 3.1 Whether the Court should enforce the Decree by requiring Michael DeLance
6 to pay the remaining Cash Equalizing Payment to Sonya DeLance from
7 Michael's share of proceeds from sale of the Woodway Home?

8 3.2 Whether the Court should require Michael DeLance pay all reasonable costs
9 and attorney's fees incurred in connection with this Motion to enforce the
10 Decree and PSA?

11 3.3 Whether the Court should require the Petitioner to refinance or otherwise payoff
12 the loans in Sonya's name that were awarded to Michael in the Decree?

13 **IV. EVIDENCE RELIED UPON.**

14 This Motion is based upon the following:

15 (1) The Declaration of Sonya DeLance in Support of the Motion to Enforce the
16 Decree dated October 4, 2019 (hereinafter referred to as "S. DeLance
17 Declaration"),

18 (2) The Decree of Dissolution, dated June 26, 2019.

19 (3) The Separation Contract and Property Settlement Agreement, effective March
20 20, 2019 (filed under seal with this motion); and

21 (4) Upon the records and pleadings on file herein.

22 **IV. ARGUMENT AND AUTHORITY.**

23 **A. ENFORCEMENT OF DECREE**

24 The Decree clearly sets out that Michael DeLance is required to make payment to
25 Sonya DeLance for the final cash equalizing payment no later than August 31, 2019. He failed
26 to do so.

1 The parties contemplated a remedy if Michael failed to make all payments when due
2 and there remained funds outstanding to Sonya after closing on the sale of their jointly owned
3 residence, the Woodway home. In such event, Sonya was to be made whole from Michael's
4 share of those home sale proceeds. Michael refuses to agree and as a result, the home sale
5 proceeds had to be transferred to a third party to be held in trust until this Court can issue an
6 order directing division of those proceeds.

7 Michael has similarly delayed taking action to remove Sonya's name for the Land
8 Rover and RV debts, though such obligation is clearly required by the PSA. Michael has
9 significant means at his disposal, retaining more than \$6,000,000 on account as his separate
10 estate (in addition to the other assets awarded to him from the community). There is no good
11 cause of his delay in meeting his obligation, which is now more than five months overdue.

12 As a direct result of Michaels refusal to comply with the plain language of the PSA,
13 Sonya has incurred attorney's fees and costs. In addition, the third-party holding home
14 proceeds in trust took a fee of \$5,000 which should be allocated to Michael exclusively. The
15 PSA authorizes the Court to require Michael pay as a result of his default: "[t]he defaulting
16 party is required to pay **all expenses**, including but not limited to reasonable attorney's fees,
17 incurred in connection with such enforcement." (emphasis added)

18 V. CONCLUSION.

19 Based on the foregoing, the undersigned respectfully requests the Court enter an Order
20 granting the relief requested.

21 DATED this 8th day of October, 2019.

22
23 BERESFORD BOOTH PLLC

24 

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Attorneys for Petitioner, Sonya DeLance