

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

DIANE RAE MATTSON
a/k/a
DIANE RAE LARSON

Debtors,

Case No.: BKY 04-42772
Chapter 7

SCOTT DAVID MATTSON,
Plaintiff

and

COMPLAINT

DIANE RAE MATTSON
a/k/a
DIANE RAE LARSON,
Defendant.

Adv. No.

Scott David Mattson, as and for his complaint against Diane Rae Mattson, also known as Diane Rae Larson, states and alleges as follows:

- 1 That Plaintiff is an adult residing at P.O. Box 131653, Roseville, MN 55113.
- 2 Defendant is an adult residing at 14548 County Rd 35, Elk River, MN 55330.
- 3 That Plaintiff and Defendant were granted a divorce in Sherburne County on February 20, 2004. See exhibit A.
- 4 The terms of the Judgment and Decree, Conclusion of Law #10, page 5, order Defendant to pay the Target credit card in the approximate amount of \$3000.00 the Pier One credit card in the approximate amount of \$3104.00 and a VISA account in the approximate amount of \$3000.00, and to indemnify the Plaintiff with regard to those debts.
- 5 Shortly after the entry of the divorce decree, Defendant opened or reactivated an account in Plaintiff's name at Citibank Visa. She transferred each of the above balances to the Plaintiff's Citibank Visa Card.
- 6 Plaintiff had no knowledge of the Citibank account, and had not given Defendant permission to incur over \$10,000.00 on the Citibank account in Plaintiff's name.
- 7 Defendant filed a Chapter 7 bankruptcy on May 17, 2004, less than three months after the granting of her divorce from Plaintiff, in case # 02-43093.

- 8 Debtor did not list Plaintiff as a creditor, nor did she notify Plaintiff in any other way that she had filed bankruptcy.
- 9 Debtor's use of Plaintiff's credit, without his knowledge or authorization, constitutes a wilful and malicious injury, and it constitutes theft.
- 10 Debtor's debt to Plaintiff is excepted from discharge under II USC §523(a)(6).
- 11 Defendant's debt to Plaintiff is excepted from discharge pursuant to 11 USC §523(a)(15).

Wherefore, Plaintiff requests the following relief;

- 1 For an order excepting Defendant's debt from discharge in this bankruptcy.
- 2 For an award of judgment against Defendant in the full amount of the Citibank credit Card, plus credit card interest prejudgment and post-judgment.
- 3 For an award of all costs incurred in the bringing of this action.
- 4 For such other and further relief as the court may deem equitable.

August 16, 2004
Dated: _____

/e/ Barbara J. May

Barbara J. May
4105 N. Lexington #310
Arden Hills, MN 55126
651-486-8887
Attorney Reg 129689

STATE OF MINNESOTA
COUNTY OF SHERBURNE

DISTRICT COURT
TENTH JUDICIAL DISTRICT
FAMILY LAW DIVISION

STATE OF MINNESOTA } ss.
COUNTY OF SHERBURNE }

In Re the Marriage of:
Diane Rae Mattson,

FILED

Court File No.: FX-03-2313

Petitioner,

FEB 20 2004

FINDINGS OF FACT,

and

Scott David Mattson,

LORRY N. NORCEN
COURT ADMINISTRATOR
By *[Signature]* Deputy

CONCLUSIONS OF LAW AND

ORDER FOR JUDGMENT

Respondent.

AND JUDGMENT AND DECREE

This matter came on for a Pretrial on February 12, 2004 before the Honorable Gregory G. Galler.

The Petitioner, Diane Rae Mattson, was present and represented by Terri A. Melcher, 6401 University Avenue NE #201, Fridley, MN 55432. The Respondent, Scott David Mattson was present and represented by Julie LaFleur, 2860 Snelling Avenue North, Roseville, MN 55113. The parties have entered into a written Marital Termination Agreement which allows the Petitioner to proceed as if by default.

After reviewing all of the evidence as set forth in the Petition and Marital Termination Agreement, and being fully advised in the premises and upon all the files and records herein, the Court makes the following as:

FINDINGS OF FACT

1. The true and correct name and address of the Petitioner is Diane Rae Mattson, 14548 County Road 35, Elk River, MN 55330, born December 18, 1960, currently 43 years of age. Petitioner has also been known by Diane Rae Larson. Petitioner requests restoration of her former name solely for purposes of this dissolution and without intent to defraud or deceive. Petitioner is not a felon pursuant to Minn. Stat. 259.13, Subd 1(a).
2. The true and correct name and address of Respondent is Scott David Mattson, 1243 Northdale Blvd, Coon Rapids, MN 55448, born July 2, 1959, presently 44 years of age. Respondent has been known by no other names.
3. Neither party is a member of the armed forces of the United States and is not entitled to the protection of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended.
4. The parties were married on November 26, 1977 in Duluth, Minnesota, divorced

on November 13, 1982 and remarried on June 22, 1988, and ever since that time have been and now are husband and wife. The parties separated on July 12, 2003.

5. The parties have been residents of the State of Minnesota for not less than 180 days immediately preceding the commencement of this proceeding.
6. The parties have no minor children. The parties have two adult children Eric David Mattson, born December 20, 1977 presently 26 years of age and Elicia Dawn Mattson, born October 9, 1983, presently 20 years of age.
7. The Petitioner is not now pregnant.
8. No separate proceeding for Dissolution of Marriage or action for divorce or legal separation is pending in any Court in this state or elsewhere.
9. There has been an irretrievable breakdown of the marriage relationship of the parties hereto, within the meaning of Minnesota Statutes Annotated 518.06, as amended.
10. The Petitioner is employed by Medtronic earning a net monthly income of approximately \$1,702.21. The Petitioner has monthly expenses of \$2,567.00. The Petitioner is in need of spousal maintenance from the Respondent.
11. The Respondent is currently employed by Complete Mobility Systems earning a net monthly income of \$2,682.00. The Respondent has monthly expenses of \$2,746.00. The Respondent is not in need of spousal maintenance from the Petitioner.
12. Each party has medical, dental and hospitalization insurance available to them through their respective employers.
13. The Respondent agreed to pay temporary spousal maintenance to the Petitioner in the amount of \$360.00 per month commencing March 1, 2004 and continuing for a period of 30 months. The parties have agreed that the spousal maintenance shall not be amended by the Court and have agreed to divest the Court of jurisdiction to modify the maintenance in the future. Each party has made a full disclosure of their financial circumstances to the other. This divestiture is fair and equitable in consideration of all of the terms of the parties' Marital Termination Agreement.
14. The parties own real estate located at 14548 County Road 35, Elk River, MN 55330, Sherburne County, State of Minnesota, legally described as:

West 400 feet of the South 544.43 feet of Northeast Quarter (1/4) of Northeast Quarter (1/4) subject to an ingress and egress easement across the West 33' of South 544.43 feet of Northeast Quarter (1/4) of Northeast Quarter (1/4) of Section 25, Township 33N, Range 27W.
PIN: 10-125-1109

The property has a current value of approximately \$209,000.00 and is encumbered by a first mortgage in the approximate sum of \$191,000.00.

15. The parties own the following vehicles: a 1991 Honda Accord, 2000 Ford F350 diesel pickup, 2003 Forestriver Sierra Fifth wheel trailer and a 2000 Smokercraft boat with 150 hp Honda motor and trailer.
16. Petitioner has a retirement account through Medtronic ESOP and SRP with a balance of approximately \$24,712.59, a stock option plan and associated employee purchased stock. The Respondent has a retirement account through Complete Mobility Systems Gevity 401K with a balance of approximately \$14,004.11.
17. The parties have divided all personal property, household goods and furnishings acquired during the marriage to their mutual satisfaction.
18. The parties have the following debts:

a.	Target	\$8,000.00
b.	Pier 1	\$8,400.00
c.	VISA	\$3,000.00
d.	Sears	\$2,222.00
e.	VISA	\$1,200.00
f.	Respondent's IRS debt	\$7,313.00
g.	Respondent's MN Dept of Rev	\$1,179.00
h.	Petitioner's IRS debt	\$1,700.00
i.	Petitioner's MN Dept of Rev	\$ 250.00
19. Neither party is currently a recipient of financial assistance from Sherburne County Social Services or the State of Minnesota.

CONCLUSIONS OF LAW

1. **Dissolution of Marriage.** The bonds of matrimony existing between the parties are hereby dissolved.
2. **Spousal Maintenance.** Commencing March 1, 2004, the Respondent shall pay to the Petitioner the sum of \$360.00 per month as and for spousal maintenance for a period of 30 month.

The Court is divested of jurisdiction to modify maintenance in the future.



Any spousal maintenance arrears of \$600.00 under the Temporary Order remaining due and payable do not merge with this Judgment and Decree.

3. **Health Insurance.** Each party shall be responsible for their own medical, dental and hospitalization insurance.

4. **Personal Property.** The parties have divided all of their personal property to their mutual satisfaction. Each party is awarded all right, title and interest in the personal property presently in their possession, free and clear of any claim of the other and subject to any encumbrances thereon.

6. **Bank and Investment Accounts.** Each party is awarded all right, title and interest in and to any bank and investment accounts, which are in their name, free and clear of any claim of the other party.

7. **Automobiles.** Petitioner is awarded the 1991 Honda Accord currently in her possession, subject to any encumbrance thereon, but free and clear of any claim of the Respondent.

The Respondent is awarded the 2000 Ford F350 diesel pickup, 2003 Forestriver Sierra Fifth Wheel trailer, 2000 Smokercraft boat, 150 hp Honda motor and trailer, currently in his possession, subject to any encumbrance thereon, but free and clear of any claim by Petitioner.

8. **Taxes.** The parties shall file their income tax returns for the years 2002, 2003 and each year thereafter, separately.

9. **Real Estate** The Petitioner is awarded all right, title, interest and equity in and to the marital homestead located at 14548 County Road 35, Elk River, MN 55330, Sherburne County, legally described as :

West 400 feet of the South 544.43 feet of Northeast Quarter (1/4) of Northeast Quarter (1/4) subject to an ingress and egress easement across the West 33' of South 544.43 feet of Northeast Quarter (1/4) of Northeast Quarter (1/4) of Section 25, Township 33N, Range 27W.
PIN: 10-125-1109

free of any claim by Respondent. The Petitioner shall be responsible for all mortgage, taxes, insurance and maintenance on said property and shall hold the Respondent harmless thereon.

Petitioner shall refinance the mortgage within 60 days after the expiration of the prepayment penalty, which should be on or about August 2006.

The Respondent shall sign and deliver to the Petitioner the executed Quit Claim Deed within 30 days of entry and service of a certified copy of the Judgment and Decree. In the event that the either party fails to execute a deed, the filing of a certified copy of the Judgment and Decree herein with the County Recorder shall operate to effect the transfer of the said property as above set forth.

10. **Debts.** Each of the parties shall be responsible for all debts incurred in their individual names from and after the date of separation of July 12, 2003.

Petitioner shall pay and be responsible for the following debts:

Target	\$3,000.00
Pier I	\$3,104.00
VISA	\$3,000.00

Respondent shall pay and be responsible for the following debts:

Sears	\$2,222.00
VISA	\$1,200.00
Respondent's IRS debt	\$7,313.00
Respondent's Mn Dept of Rev	\$1,179.00
Petitioner's IRS debt	\$1,700.00
Petitioner's Mn Dept of Rev	\$ 250.00

If either party fails to pay any debt or liability, as set forth above, the other party shall have the right, but is not obligated, to make any payments due. If debt is defaulted by the defaulting party shall be responsible for indemnification and reimbursement to the party who made the payments, with interest computed at the judgment rate per annum on the amount of any payment made by said party. Interest shall accrue until the debt is reimbursed in full.

11. **Retirement Accounts.** The Petitioner is awarded all right, title and interest in her Medtronic ESOP and SRP, stock option plans and all associated employee purchased stock, free and clear of any claim by Respondent.

Respondent is awarded all right, title and interest in his Gevity 401K in his name, free and clear of any claim of the Petitioner.

12. **Attorney Fees.** Each party shall pay their own attorney fees and court costs herein.

13. **Service.** Service by U.S. mail by the attorney for the Petitioner upon the attorney for the Respondent of a certified copy of the Findings of Facts, Conclusions of Law, Order for Judgment, Judgment and Decree shall constitute due and proper service of said decree upon the Respondent.

14. **Execution and Exchange of Documents.** Each party hereto shall hereafter upon any reasonable request made by the other party execute and deliver to the requesting party such assignments and other documents as may be necessary and required to fully effectuate each and all of the provisions contained herein; and in this connection, the party entitled to and/or requesting such assignments or other documents shall pay for any expenses incurred in the preparation thereof and shall also pay any and all recording and filing fees and all other attendant expenses.
15. **Discharge of Attorney.** Terri A. Melcher, attorney for Petitioner, and Julie LaFleur, attorney for Respondent shall be terminated as the attorneys of record sixty-one (61) days from the service of the Notice of Entry of the Judgment and Decree herein. Petitioner's attorney shall file an Affidavit of Service with the Court.
16. **Release.** Subject to the foregoing and subject to the full compliance therewith, each party does otherwise in all respects, manners and things release and fully discharge the other from any liability, claims or obligations of any kind or character, whether arising out of the marriage relationship or otherwise and the foregoing shall be deemed to constitute a full, final and complete property settlement between the parties in lieu of any other provisions of any other claims of any kind and character which otherwise might exist and extend between the parties hereto.
17. **Harassment.** The Petitioner and Respondent and their agents and servants agree to be enjoined and restrained from doing, or attempting to do, any act of injuring, maltreating, vilifying or harassing the adverse party either in person or by telephone.
18. **Enforceability.** The terms, conditions and provisions contained herein shall inure to the benefit of and be binding upon and enforceable against each of the parties hereto and their respective heirs, personal representatives and estates.
19. **Notices.** The attached Appendix is incorporated and made a part hereof. The Appendix contains provisions regarding Parental Rights, M.S. 518.177 and 609.26; Income Withholding, M.S. 518.611; Docketing of Judgments, M.S. 548.091; Insurance Required by M. S. 518.171; Notice of Address or Residence Change, M.S. 518.55, subdivision 3; Cost-of-Living Adjustment, M.S. 518.641; Family Court Rule 303.06 and Capital Gains on Principal Residence.
20. **Name change.** Petitioner shall henceforth be known as Diane Rae Larson.

APPROVED AS TO FORM:

Dated: February 13, 2004

Dated: 2-13-04

Terri A. Melcher

Terri A. Melcher
Attorney for Petitioner #188773
6401 University Avenue NE #201
Fridley, MN 55432
763-571-0095

Julie LaFleur

Julie LaFleur
Attorney for Respondent #326136
2860 Snelling Avenue North
Roseville, MN 55113
651-604-0000

ORDER FOR JUDGMENT

LET JUDGMENT BE ENTERED ACCORDINGLY.

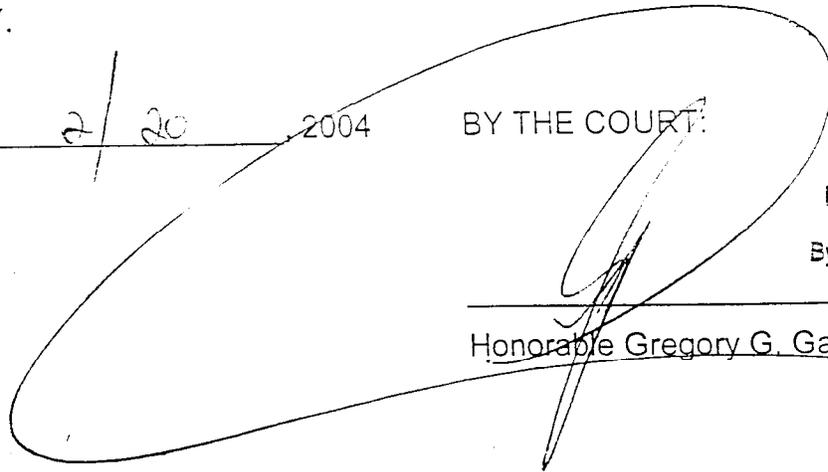
NOT WITHSTANDING GEN. R. PRAC. 125, LET JUDGMENT BE ENTERED IMMEDIATELY.

STATE OF MINNESOTA }
COUNTY OF SHERBURNE } ss.
FILED

Dated: 2/20 2004

BY THE COURT:

FEB 20 2004



LORAYNE N. NORGRAN
COURT ADMINISTRATOR
By *Lorayne N. Norgran* Deputy

Honorable Gregory G. Galler

I hereby certify that the foregoing Conclusions of Law constitute the Judgment and Decree of this Court.

Dated: February 20, 2004

Lorayne N. Norgran
District Court Administrator