

At an I.A.S. Part \_\_\_\_\* of the Supreme Court of the State of New York, held in and for the County of Nassau,\* at the Supreme Courthouse, Mineola,\* New York, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PRESENT :

HON.

Justice.

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MARY JONES,\*

Plaintiff,

Index No. (Insert #)

~~-against-~~

**JUDGMENT**

JOHN JONES,\*

Assigned to Justice \_\_\_\_\_

Defendant.

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The plaintiff having brought this action for a judgment of absolute divorce by reason of the constructive abandonment of the plaintiff by the defendant,\* and the summons bearing the notation "ACTION FOR A DIVORCE" together with the verified complaint having been duly served upon the defendant personally within the State of New York; and the defendant, by his attorney, Lila Law, Esq.,\* having answered the complaint by neither admitting nor denying the allegations thereof and consenting that this matter proceed to judgment as an uncontested action; and the plaintiff having applied on due notice to the defendant's attorney to this Court for judgment for the relief demanded in the complaint; and the parties having entered into a settlement agreement dated June 14, 20\_\_,\* with respect to certain issues of this action; and this matter having been submitted to me for consideration; and the plaintiff having presented written proof by affidavit in support of the essential allegations of the complaint; and such proof having been reviewed and considered by me, I decide and find as stated in the separate FINDINGS OF FACT AND CONCLUSIONS OF LAW of even date herewith,

NOW, on motion of DaSilva, Hilowitz & McEvily LLP,\* attorneys for the plaintiff, and no counter-judgment having been submitted, it is

ADJUDGED that the marriage between Mary Jones,\* plaintiff, and John Jones,\* defendant, is dissolved by reason of the abandonment of the plaintiff by the defendant for a period of one or more years;\* and it is further

ADJUDGED that the plaintiff and the defendant shall have joint custody\* of the children of the parties, namely: Clementine Jones,\* born on March 4, 1994,\* (social security number 153-17-

6543\*) and Emma Jones,\* born on December 2, 1996\* (social security number 164-19-5132\*), except that said children shall reside primarily with the plaintiff, subject to the rights of the defendant to have visitation with said children as set forth in the said settlement agreement of the parties; and it is further

ORDERED AND ADJUDGED that the defendant may have visitation with said children as follows:\* (a) Friday from 6:00 p.m. to Sunday at 7:00 p.m. on alternating weekends; (b) Tuesday evening of each week and those Thursday evenings where the defendant has no visitation the next succeeding weekend, said times to be from 6:00 p.m. to 9:00 p.m. (and shall include dinner), provided that said times do not substantially interfere with school activity; (c) two consecutive or non-consecutive full week periods during the summer school vacation period, provided that the defendant gives the plaintiff written notice of the full weeks selected by April 15th of the year in question and said visitation will not interfere with any summer camp or summer travel program or similar activity of the child; and the plaintiff shall also have the right to be with the child for two consecutive or non-consecutive full week periods during the summer school recess (not to interfere with the weeks selected by the defendant); and if there are insufficient weeks for each party to have the above-designated times with the children because of the children's summer camp or similar organized summer activity, then the parties shall share equally the non-camp (or similar activity) time; and the parties shall endeavor in good faith to arrange the summer visitation bearing in mind the planned activities of the children and of the parties; (d) Martin Luther King, Jr.'s, President's Day, Memorial Day, Labor Day and Veterans' Day weekends in alternate years, beginning at 5:30 p.m. on Friday to Sunday at 8:00 p.m. (regularly scheduled weekends may have to be adjusted accordingly); (e) on each child's birthday for not less than 3 hours, said times to be arranged so that they will not interfere with the child's school and the plaintiff's planned birthday party or celebration, which she shall plan bearing in mind the welfare of the children and the schedule of the defendant; (f) on each Father's Day and on the defendant's birthday from 10:00 a.m. to 7:00 p.m. (if the defendant's birthday is on a school or camp day, then at reasonable times); and there shall be no visitation on each Mother's Day or on the plaintiff's birthday; (g) winter school recess and Christmas school recess in even-numbered years, each visitation period to begin at 5:30 p.m. on the last day of school before the recess and to end at 7:00 p.m. on the last day of the school recess; and in the event that the defendant should choose to exercise less than the entire visitation period, he shall give the plaintiff not less than 60 days' prior notice so that she may make appropriate plans for the children with the defendant's visitation plans in mind; (h) the first and second days of Rosh Hashanah each year and the Yom Kippur holy day each year from 4:00 p.m. to 11:00 p.m.; and the nights of Chanukah each year from 4:00 p.m. to 11:00 p.m., unless any of said nights should fall within the Christmas school recess when the children will be with the plaintiff for that period and the plaintiff is out-of-town with the children; (i) notwithstanding the foregoing, the defendant shall not have any right of visitation during the holiday times mentioned above which are not designated as visitation periods for the defendant, said times being reserved for the plaintiff; nor shall there be any visitation on Easter Sunday, Christmas Eve and Christmas Day; and (j) at such other and different times and days as the parties may agree;\* and it is further

ORDERED AND ADJUDGED that the defendant shall pay to the plaintiff by check or money order drawn to her order and forwarded to the plaintiff at her residence or at such other place as she may designate in writing, for her support and maintenance, the sum of \$1,000 per month,\* in advance, commencing on the first day of the month after the title closing on the sale of the marital

residence (the month of title closing to be prorated), and continuing on the first day of each month thereafter for a period of eight years (i.e. 86 months)\*, at which time said payments shall cease, except that said payments shall sooner terminate upon the earlier happening of the death of either party or the plaintiff's remarriage;\* and it is further

ORDERED AND ADJUDGED that the defendant shall pay to the plaintiff by check or money order drawn to her order and forwarded to the plaintiff at her residence or at such other place as she may designate in writing, for the support and maintenance of the children of the parties, the sum of \$3,125 per month,\* in advance, for as long as there are two unemancipated children and thereafter the sum of \$2,125 per month,\* in advance, for as long as there is one unemancipated child, commencing on the first day of the month after title closing on the sale of the marital residence (the month of title closing to be prorated), and continuing on the first day of each month thereafter until the emancipation of both children as set forth above;\* and it is further

ORDERED AND ADJUDGED that:

(a) Pursuant to the agreement of the parties, child support for the children; namely: Clementine Jones\* and Emma Jones,\* shall be paid by the defendant to the plaintiff in the amount of \$3,125 per month\* for as long as there are two unemancipated children and thereafter the sum of \$2,125 per month\* for as long as there is one unemancipated child, said agreement being in compliance with DRL Section 240(1-b); and

(b) The parties have been advised of the provisions of DRL Section 240(1-b); and

The basic child support obligation as defined in DRL Section 240(1-b) presumptively results in the correct amount of child support to be awarded; and

Based upon the Husband's child support income of \$150,000 and the Wife having no Income, the presumptive amount of the defendant's pro rata share of the basic child support obligation based on combined parental income under \$130,000 per year is \$2,708 per month (based upon 25% of income for two children) and said percentage and/or an additional discretionary sum based upon annual parental income in excess of \$130,000 per year based upon the factors set forth in DRL Section 240(1-b); and

The basic child support obligation in this case is \$3,125 per month,\* based upon the percentage formula applied total parental income for two unemancipated children and \$2,125 per month\* for one unemancipated child, plus certain medical expenses not covered by the medical insurance which the defendant will maintain for the children of the parties plus certain expenses for the religious education, tutoring, extracurricular activities, summer camp and college expenses of the children of the parties;\* and

(c) The amount of child support agreed to in the agreement conforms to the basic child support obligation; and it is further

ORDERED AND ADJUDGED that the defendant shall provide at his own expense medical insurance coverage and deductibles as existed as of June 14, 2009,\* for the benefit of the plaintiff until the earlier happening of her remarriage or the date of June 14, 2011,\* and for the benefit of

each child of the parties until emancipation, and shall pay for all reasonable uninsured medical expenses of each child in accordance with the settlement agreement of the parties;\* and that after the earlier happening of the plaintiff's remarriage or the date of June 14, 2010\*, the plaintiff shall be responsible for her own health insurance coverage; and it is further

ORDERED AND ADJUDGED that the defendant shall pay for the following reasonable expenses of each unemancipated child of the parties:\* (a) religious education; (b) tutoring, speech and reading therapy or lessons; (c) expenses for the extracurricular activities of the child limited to the sum of \$500 per child per year; and (d) summer camp expenses or expenses for similar summer activities,\* all in accordance with and as more particularly set forth in the settlement agreement of the parties; and it is further

ORDERED AND ADJUDGED that the defendant shall pay for the reasonable college expenses of each unemancipated child,\* provided that (i) the child shall pursue a course of study leading to an undergraduate degree or diploma; and (ii) both the plaintiff and the defendant approve of the educational institution, the course of study and the living arrangements, which approvals shall not be unreasonably withheld; and that notwithstanding the foregoing, the funds presently held in the plaintiff's possession in custodial accounts for the children shall first be used for the respective college educations of the children (unless the parties agree otherwise); and that the defendant's liability after said funds are exhausted shall be limited to the costs which would be incurred for said education at State University of New York at Binghamton,\* unless the defendant agrees to pay a higher sum; and it is further

ORDERED AND ADJUDGED that the defendant shall maintain a policy or policies of insurance on his life having death benefits actually payable to the beneficiary in the sum of \$500,000,\* and that the plaintiff shall be designated irrevocably as the primary beneficiary of said policy until the earliest happening of her death, remarriage or the emancipation of both children; and in the event of her remarriage, the plaintiff shall be the trustee for the benefit of the children of the parties until they are both emancipated; and that the defendant shall have the right, upon prior written notice to the plaintiff, to reduce the amount of such life insurance to an amount not less than the aggregate of all of his financial obligations under the said settlement agreement of the parties had he lived, all in accordance with the provisions of the said settlement agreement;\* and it is further

ORDERED AND ADJUDGED that the parties shall promptly place upon the market for sale the marital residence located at 4321 Fourth Street, Garden City,\* New York, and that upon the title closing upon the sale of said residence or as soon thereafter as practicable, the net proceeds of sale shall be divided equally between the parties; and that the defendant shall pay to the plaintiff out of his share of the net sale proceeds the sum of \$30,000, all in accordance with and as more particularly set forth in the settlement agreement of the parties;\* and it is further

ORDERED AND ADJUDGED that the plaintiff shall have exclusive possession of the marital residence until title closing in accordance with the settlement agreement of the parties;\* and it is further

ORDERED AND ADJUDGED that until title closing, the defendant shall continue to pay for all of the reasonable expenses of the marital residence as set forth in the settlement agreement of the parties;\* and that the defendant shall continue to pay to the plaintiff the non-taxable sum of \$850\*

per week, in advance, to cover the expenses associated with the marital residence normally paid by her in the past, commencing as of June 16, 20\_\_,\* and continuing on each Friday thereafter until the premises are sold and title has closed (the week of June 12, 20\_\_ and the week of title closing shall be prorated);\* and that the defendant shall not be obligated to pay maintenance to the plaintiff for the period of time until the title closing upon the sale of the marital residence, provided that he shall make the foregoing payments, all in accordance with the settlement agreement of the parties;\* and it is further

ORDERED AND ADJUDGED that the defendant shall make all payments under a certain auto loan in connection with the plaintiff's purchase of a certain 2007 Chevrolet automobile,\* and shall indemnify and hold the plaintiff harmless of all loss, expenses (including but not limited to reasonable attorneys' fees) and damages in connection with or relating to said loan; and that the defendant shall pay for the insurance on said automobile until the earlier happening of the plaintiff's remarriage or the date of June 14, 20\_\_;\* and it is further

ORDERED AND ADJUDGED that the settlement agreement between the parties dated June 14, 2005,\* a copy of which is on file with the Court, shall be incorporated in its entirety in this judgment by reference as though fully and at length set forth herein and shall survive and shall not be merged in this judgment, and the parties hereby are directed to comply with each and every legally enforceable term and provision of said agreement, and this Court retains jurisdiction of the matter concurrently with the Family Court of the State of New York for the purpose of specifically enforcing such of the provisions of that agreement as are capable of specific enforcement, or to the extent permitted by law, and of making such further judgment with respect to support, custody or visitation as it finds appropriate under the circumstances existing at the time application for that purpose is made to it, or both; and it is further

ORDERED AND ADJUDGED that the plaintiff is authorized to resume the use of her maiden surname, namely: Good,\* or any other former surname.

ENTER .

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J.S.C.