

DOCKET NO. 175

| NUMBER | TERM | YEAR |
|--------|----------|------|
| 261 | November | 1961 |

Benjamin F. Gearhart

VERSUS

Nellie L. Gearhart

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART

-VS-

NELLIE L. GEARHART

No. 261 November Term, 1961

IN DIVORCE

AFFIDAVIT OF INTENTION TO RETAKE PRIOR NAME

COMMONWEALTH OF PENNSYLVANIA

SS

COUNTY OF CLEARFIELD

NELLIE L. GEARHART, being duly sworn according to law, deposes and says that she is the Defendant in the above suit in which a Final Decree of Divorce from the bonds of matrimony was granted on the sixth (6th) day of April, 1962; that Defendant elects to retake and hereafter use her prior name of NELLIE L. NOLDER, and, therefore, gives this written notice avowing said intention in accordance with the provisions of the Act of May 25, 1939, P.L. 192, as amended.

Nellie L. Gearhart
Nellie L. Gearhart

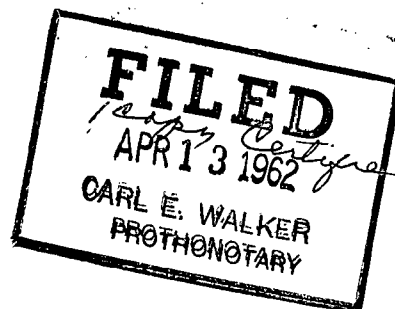
To be known as:

Nellie L. Nolder
Nellie L. Nolder

Sworn to and subscribed and acknowledged to be her act and deed for the purposes therein contained before me this 11th day of April, 1962.

Lawrence C. Swanson

Notary Public, DuBois Clearfield Co.
My Commission Expires April 11, 1962



Clearfield County, ss:

The Commonwealth of Pennsylvania, to James A. Gleason, Esquire

Greeting:

Know you, that in confidence of your prudence and fidelity we have appointed you, and by these presents do give unto you full power and authority, in pursuance of an order made in our County Court of Common Pleas, for the County of Clearfield, in a certain cause there depending, wherein

Benjamin F. Gearhart

Plaintiff ,

and Nellie L. Gearhart

Defendant ,

to call before you at a certain day and place by you for that purpose to be appointed, all and every person who may be named to you on the part of the parties

as witnesses in the said cause, and then and there to examine each of the said witnesses upon their oath or solemn affirmation touching the premises and reduce their testimony to writing and report same with form of Decree.

and when you shall have done so, you are to send the name before our Judge at Clearfield, at our said Court, together with the interrogatories and this writ, and under your hand and seal.

In Testimony Whereof, we have caused the seal of our said Court to be hereunto affixed.

WITNESS, the Hon. John J. Pentz, President of our said Court, at Clearfield, the

29th day of January, in the year of our Lord one thousand nine hundred and

Sixty-two.

Carl E. Walker

Prothonotary

To the Honorable, the Judge, &c.:

The execution of this commission appears in a certain schedule hereunto annexed.

J. A. Gleason



COMMISSIONER.

No. 261 November Term. 19 61

Benjamin F. Gearhart

Plaintiff

VERSUS

Nellie L. Gearhart
Defendant

COMMISSION

Ammerman & Blakely Attorney.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff;

-vs-

NELLIE L. GEARHART,
Defendant

No. 261 NOVEMBER TERM, 1961

IN DIVORCE

MASTER'S REPORT

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

The undersigned Commissioner appointed by your Honorable Court to take testimony and report the same with form of Decree in the above entitled action respectfully represents:

I. COMMISSION.
(Heraunto attached).

II. DOCKET ENTRIES AND SCHEDULE.

1. Complaint in Divorce filed on December 15, 1961.

2. On December 19, 1961, the within Complaint was served on Nellie L. Gearhart, personally, at her residence in Luthersburg, Pennsylvania.

3. On January 29th, 1962, on Motion on the Watch Book James A. Gleason, Esq., was appointed Master to take the testimony and report the same with form of Decree.

4. Master's hearing was appointed for Friday, February 16th, 1962, at 10:00 o'clock A.M., E.S.T., in the offices of Gleason, Cherry & Cherry, 109 North Brady Street, DuBois, Pennsylvania. At the request of Counsel for the Plaintiff, said hearing was continued until April 4th, 1962, at 2:00 o'clock P.M. E.S.T. at the said offices of Gleason, Cherry & Cherry, 109 North Brady Street, DuBois, Pennsylvania.

5. Notice of hearing was served on the above named Defendant, NELLIE L. GEARHART, at her residence, to wit, in Luthersburg, Pennsylvania, on the 30th day of January, 1962.

6. That the time and place for continued hearing having arrived, they appeared before your Master, BENJAMIN F. GEARHART, Plaintiff; DONNA KRACH, witness for Plaintiff and DAVID E. BLAKLEY, Attorney for Plaintiff. Said Defendant did not appear at either hearing nor was she represented by Counsel.

III. COMPLAINT AND FILED PAPERS.

(Hereto attached).

IV. CAUSES OF DIVORCE. Indignities to the Person.

V. FINDINGS OF FACT.

1. Marriage - the said Plaintiff and Defendant were married on the 23rd day of April, 1960 in Luthersburg, Brady Township, Clearfield County, Pennsylvania.

2. Residence - The Plaintiff and Defendant have resided continuously in the Commonwealth of Pennsylvania since their births. The present residence of the Plaintiff and Defendant being Luthersburg, Brady Township, Pennsylvania.

3. Citizenship - Both the Plaintiff and Defendant are natural born citizens of the United States.

4. Age and occupation - The Plaintiff is 59 and is a laborer, a dock hand at O. K. Heilman Trucking Company. The present age of the Defendant is either 57 or 58 and her occupation is any, is unknown.

5. Children - There were no children born as a re-

sult of the said marriage.

6. Armed Forces - Neither the said Plaintiff nor the Defendant are members of the Armed Forces of the United States.

7. Findings on the Merits and Discussions - According to the uncontradicted and corroborated testimony of the Plaintiff, the parties were married at Luthersburg, Pennsylvania, on the 23rd day of April, 1960. No children were born to this marriage; and there was no difficulty between the parties for several months, at which time the wife became dissatisfied with her step-children and evidently did not care for her husband's association with them. This, in turn, led to the repeated arguments and a coldness on her part towards her husband. The arguments continued and grew worse in intensity until it led to the inevitable separation of the parties. The Defendant left the home and instituted an action in divorce against her husband. Despite this proceeding the Plaintiff exercised his best endeavors to effect a reconciliation and the action was discontinued by her. However, in June, 1961, the arguments continued, including those of their respective financial responsibilities and when she again left in June, of 1961, without explanation, she never returned to her domicile and towards the latter part of their married life together had neglected her housekeeping duties. As a consequence, the Plaintiff underwent both mental suffering and physical impairment according to the testimony of his daughter, Mrs. Donna Krach.

VI. CONCLUSIONS OF LAW.

1. Your Commissioner finds that the proceedings in this action are in accordance with the requirements of law and rules of Court.

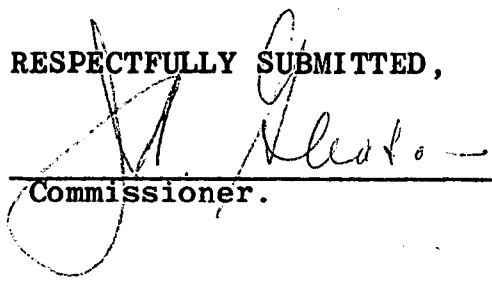
2. The Court has jurisdiction of the action and the parties.

3. Good and sufficient grounds for divorce has been established by the evidence.

VII. RECOMENDATIONS

Your Master recommends that a divorce be granted to the Plaintiff and against the Defendant on the grounds of Indignities to the Person of the Plaintiff.

RESPECTFULLY SUBMITTED,



Commissioner.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Benjamin F. Gearhart :
vs. : No. 261 November Term, 1961
Nellie L. Gearhart :

DOCKET ENTRIES

December 15, 1961, Complaint in Divorce filed. One copy certified to Attorneys.

Constable's Return filed, January 26, 1962.

NOW, December 19, 1961, at 10:30 o'clock A.M. served Nellie L. Gearhart, at her residence in Luthersburg, Pennsylvania with a true and attested copy of the within Complaint in Divorce at No. 261 Nov. Term, 1961, by handing the same to and leaving with her, personally, and making known to her the contents thereof. So answers, James Thompson, Constable.

January 29, 1962, By Motion on the Watch Book, James A. Gleason, Esquire is appointed Master to take the testimony and Report same with form of Decree to the Court. By the Court, John J. Pentz, P. J.

February 12, 1962, On praecipe filed, Leo R. Brockbank, Attorney, enters his appearance for the Defendant.

February 12, 1962, Petition for Alimony Pendente Lite, Counsel Fees and Expenses; Affidavit and Order of Court, filed by Leo R. Brockbank, Attorney.

ORDER: AND NOW, this Feb. 12, 1962, upon consideration of the foregoing Petition and on motion of Leo R. Brockbank, Esquire, Attorney for the Defendant, a rule is granted on the Plaintiff to show cause why he should not pay the Defendant alimony pendente lite and counsel fees and costs: all further proceedings shall be stayed until the Court has passed upon the Prayer of the Petitioner. Returnable sec. leg. By the Court, John J. Pentz, President Judge.

February 12, 1962, On praecipe filed by Leo R. Brockbank, Attorney for the Defendant, a rule is issued on the Plaintiff to file a Bill of Particulars within twenty (20) days after service of the Rule, or non pros. sec. leg.

February 23, 1962, Service accepted on Rule. David E. Blakley.

February 23, 1962, Service accepted on Petition, David E. Blakley.

Certified from the record this 23rd day of February, A. D. 1962.


Prothonotary.

No 261, Ret. Term, 1961

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

IN DIVORCE

BENJAMIN F. GEARHART,
Plaintiff

- VS -

NELLIE L. GEARHART,
Defendant.

COMPLAINT

TO THE WITHIN DEFENDANT:
You are hereby notified
to plead to the within
complaint within twenty (20)
days from the date of
service hereof.

AMMERMAN & BLAKLEY

BY

[Signature]
Attorney for Plaintiff

FILED

DEC 15 1961

WM. T. HAGERTY
PROTHONOTARY

LAW OFFICES
AMMERMAN & BLAKLEY
DUBOIS, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART :

-vs-

No. 261 November Term, 1961

NELLIE L. GEARHART :

DOCKET ENTRIES

December 15, 1961, Complaint in Divorce filed. One copy certified to Attorney.

Constable's Return filed, January 26, 1962.

NOW, December 19, 1961, at 10:30 o'clock A.M. served Nellie L. Gearhart, at her residence in Luthersburg, Pennsylvania, with a true and attested copy of the within Complaint in Divorce at No. 261 November Term, 1961, by handing the same to and leaving with her, personally, and making known to her the contents thereof. So answers;, James Thompson, Constable.

January 29, 1962, By Motion on the Watch Book, James A. Gleason, Esquire is appointed Master to take the testimony and Report same with form of Decree to the Court. By the Court, John J. Pentz, P.J.

February 12, 1962, On praecipe filed, Leo R. Brockbank, Attorney, enters his appearance for the Defendant.

February 12, 1962, Petition for Alimony Pendente Lite, Counsel Fees and Expenses; Affidavit and Order of Court, filed by Leo R. Brockbank, Attorney.

ORDER: AND NOW, this Feb. 12 day of February, 1962, upon consideration of the foregoing Petition and on motion of Leo R. Brockbank, Esquire, Attorney for the Defendant, a rule is granted on the Plaintiff to show cause why he should not pay the Defendant alimony pendente lite and counsel fees and costs; all further proceedings shall be stayed until the Court has passed upon the Prayer of the Petitioner. Returnable sec. leg. By the Court, John J. Pentz, President Judge.

February 12, 1962, On praecipe filed by Leo R. Brockbank, Attorney for the Defendant, a rule is issued on the Plaintiff to file a Bill of Particulars within twenty (20) days after service of the Rule, or non pros. sec. leg.

February 23, 1962, Service accepted on Rule. David E. Blakley.

February 23, 1962, Service accepted on Petition. David E. Blakley.

March 20, 1962, Agreement for Counsel Fees filed by David E. Blakley, Attorney for Plaintiff and Leo R. Brockbank, Attorney for Defendant.

ORDER ON PETITION FOR ALIMONY AND COUNSEL FEES:

AND NOW, March 15, 1962, after agreement reached by Counsel for the Parties in the above entitled action, the Rule to show Cause, heretofore granted in this case, is made absolute, and the Plaintiff, BENJAMIN F. GEARHART, is directed to pay to the Defendant or to Leo R. Brockbank, her attorney, the sum of One Hundred Fifty (\$150.00) Dollars, as counsel fees and costs. By the Court, John J. Pentz, P.J.

Receipt of \$150.00 counsel fees and costs as agreed above is hereby acknowledged. /s/ Leo R. Brockbank, Attorney for Defendant.

March 20, 1962, On praecipe filed by Leo R. Brockbank, Attorney for Defendant, Rule on the Plaintiff to file a Bill of Particulars is hereby directed to be marked discontinued.

And Now, March 19, 1962, service of the above is hereby accepted by copy. /s/ David E. Blakley, Attorney for Plaintiff.

Certified from the record this 20th day of March, A. D. 1962.

Carl E. Halke
Prothonotary.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

BENJAMIN F. GEARHART,
Plaintiff

-vs-

NELLIE L. GEARHART
Defendant

No. 261, Nov Term, 1961

IN DIVORCE

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*

COMPLAINT

NOW comes Benjamin F. Gearhart, plaintiff, and brings this action of divorce on the following causes of action:

1. The name of the plaintiff is Benjamin F. Gearhart, and of the Defendant, Nellie L. Gearhart, and both parties are of full age and competent.

2. The plaintiff is residing at Luthersburg, Brady Township, Clearfield County, Pennsylvania.

3. The defendant is residing at Luthersburg, Brady Township, Clearfield County, Pennsylvania.

4. Both the plaintiff and defendant are citizens of the United States.

5. The plaintiff and defendant were married on April 23, 1959 in Luthersburg, Brady Township, Clearfield County, Pennsylvania.

6. There were no children born as a result of this marriage.

7. Plaintiff avers that the defendant, in violation of her marriage vows, and of the Laws of the Commonwealth of Pennsylvania, did offer such indignities to the person of the Plaintiff as to render his life burdensome and his condition intolerable.

8. That the defendant herein did, at No. 154 September

term, 1960 in the Court of Common Pleas of Clearfield County,
institute divorce proceedings against the plaintiff herein,
which proceedings were ended and terminated by leave of Court.

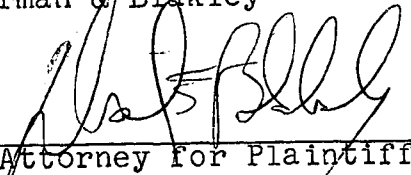
9. This action is not collusive.

WHEREFORE, your Plaintiff prays that he be granted a
divorce a vincula matrimonii from the Defendant.

And he will ever pray.

Ammerman & Blakley

By


Attorney for Plaintiff

STATE OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :

The above named BENJAMIN F. GEARHART, being duly sworn according to law, deposes and says that the statements contained in the foregoing complaint are true, and that the said complaint is not made out of levity or by collusion between him and the said Respondent, Nellie L. Gearhart, for the mere purpose of being freed and separated from each other, but in sincerity and truth for the causes mentioned in the said libel.

Benjamin F. Gearhart
Benjamin F. Gearhart

Sworn to and subscribed
before me this 14 day of
December, 1961.

Mrs. Della W. Egan

MRS. DELLA W. EGAN, Notary Public
DU BOIS, CLEARFIELD CO., PA.
My Commission expires Sept. 30, 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

BENJAMIN F. GEARHART,
Plaintiff

-vs-

NELLIE L. GEARHART,
Defendant

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:

No. 261, November Term, 1961

IN DIVORCE

CONSTABLE'S RETURN

NOW, December 19, 1961, at 10:30 o'clock, A.M.,
served NELLIE L. GEARHART, at her residence in Luthersburg,
Pennsylvania, with a true and attested copy of the within Com-
plaint in Divorce, at No. 261 November Term, 1961, by handing the
same to and leaving with her, personally, and making known to
her the contents thereof.

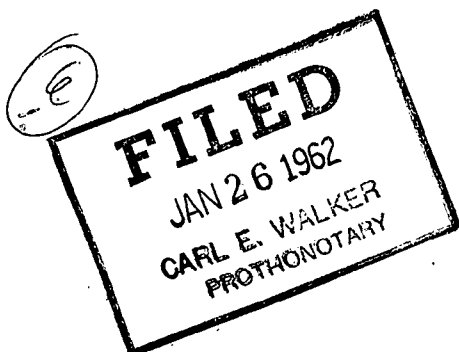
So answers,

James Thompson
Constable

Sworn to and subscribed before me this 19th day of December,
1961.

Mrs. Della W. Egan

MRS. DELLA W. EGAN, Notary Public
DU BOIS, CLEARFIELD CO., PA.
My Commission expires Sept. 30, 1962



Benjamin F. Gearhart :
:
-vs : No. 261 November Term, 1961
:
Nellie L. Gearhart :

DECEMBER 15, 1961, COMPLAINT IN DIVORCE filed. One copy certified to Attorney

Constable's Return filed, January 26, 1962
NOW, December 19, 1961, at 10:30 o'clock, A. M. served Nellie L. Gearhart, at her residence in Luthersburg, Pennsylvania, with a true and attested copy of the within Complaint in Divorce at No. 261 November Term, 1961, by handing the same to and leaving with her, personally, and making known to her the contents thereof. So answers, James Thompson, Constable.

January 29, 1962, By Motion on the Watch Book, James A. Gleason, Esquire, is appointed Master to take the testimony and Report same with form of Decree to the Court. BY THE COURT, John J. Pentz, President Judge.

Certified from the Records this 29th day of January, 1962.

Carl E. Walker.
Prothonotary

Benjamin F. Gearhart

versus

Nellie L. Gearhart

In the Court of Common Pleas
of Clearfield County, Pa.

No. 261 November Term, 19 61

Fi. Fa., No. 19

And now, February 12, A. D. 19 62, ~~petition read and~~
~~considered and~~ a rule is granted on Plaintiff to file a Bill of Particulars
within twenty (20) days after service of the Rule, or non pros, sec. leg.

Returnable Twenty (20) Days

By the Court,

HON. JOHN J. PENTZ, P. J.

Certified from the record this 12th

day of February, 19 62

Carl E. Halkes
Prothonotary

No. 261 Nov. Term, 1961

Benjamin F. Gearhart

vs

Nellie L. Gearhart

Rule On

Benjamin F. Gearhart

Attorney for Claimant

Ammerman & Blakley
Attorney for Plaintiff

Leo R. Brockbank
Attorney for Defendant

BENJAMIN F. GEARHART

Plaintiff

VERSUS

NELLIE L. GEARHART

Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA.

No. 261 Term November Term, 19 61

To CARL E. WALKER

Prothonotary

Sir: Enter my appearance for NELLIE L. GEARHART, Defendant

in above case.



Leo R. Brockbank

Attorney for Defendant

February 9, 1962.

FILED
FEB 12 1962
CARL E. WALKER
PROTHONOTARY

③

Defendant

For NELLIE L. GEARHART

APPEARANCE

Defendant

NELLIE L. GEARHART

VS.

Plaintiff

BENJAMIN F. GEARHART

No. 261 Term November 19 61

①

Blakey

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|---|--|
| IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. NO. 261 - NOVEMBER TERM, 1961 IN DIVORCE | |
| BENJAMIN F. GEARHART | |
| -VS- | |
| NELLIE L. GEARHART | |
| PETITION FOR ALIMONY PENDENTE LITE, COUNSEL FEES AND EXPENSES; AFFIDAVIT AND ORDER OF COURT. | |
| <div><div>FILED FEB 12 1962 CARL E. WALKER PROTHONOTARY</div><div>LEO R. BROCKBANK ATTORNEY AT LAW SUITE 240, 242, 244 DU BOIS DEPOSIT NATIONAL BANK BUILDING DU BOIS, PENNSYLVANIA</div></div> | |

Seems right - Feb 23, 1962

2/23/62 Blakey

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff

-vs-

NELLIE L. GEARHART
Defendant

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:

No. 261 NOVEMBER TERM, 1961

IN DIVORCE

O R D E R

AND NOW, this Feb. 12 day of February
1962, upon consideration of the foregoing Petition and on
motion of LEO R. BROCKBANK, ESQUIRE, Attorney for the Defendant,
a Rule is granted on the Plaintiff to show cause why he should
not pay the Defendant alimony pendente lite and counsel fees
and costs; all further proceedings shall be stayed until the
Court has passed upon the Prayer of the Petitioner. Returnable
sec. leg.

BY THE COURT

John J. Pentz
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff

-vs-

NELLIE L. GEARHART
Defendant

No. 261 NOVEMBER TERM, 1961
IN DIVORCE

PETITION FOR ALIMONY PENDENTE LITE, COUNSEL FEES AND EXPENSES

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

The Petition of NELLIE L. GEARHART respectfully represents:

1. That she is the Defendant in a Divorce action brought by her husband, BENJAMIN F. GEARHART, as Plaintiff.
2. That by reason of the conduct of the Plaintiff, the Defendant will be put to considerable expense in the preparation of her case, in the employment of counsel and the payment of costs.
3. That the Defendant is without funds to support herself and to meet the costs and expenses of this litigation and is unable to maintain herself during the pendency of this action.
4. That owing to the conduct of the Plaintiff, the Defendant has been required to leave the Plaintiff on two separate occasions, the last one being in the middle of June, 1961.
5. That the Plaintiff has failed and refused to support the Defendant since the middle of June, 1961.
6. That the Plaintiff is at present employed by the O.K. Heilman Trucking Company, with offices on Tip Street, DuBois, Pa., and his present wages are over \$500.00 per month.

WHEREFORE, your Petitioner prays that your Honorable Court grant a Rule on the above Plaintiff to show cause why an Order should not be made upon him to pay her alimony pendente lite and to pay her counsel fees and costs.

Nellie L. Gearhart
Nellie L. Gearhart,

Petitioner.

STATE OF Pennsylvania
COUNTY OF Clearfield SS

Personally appeared before me, a Notary Public
in and for said County and State, NELLIE L. GEARHART, who
being duly sworn according to law, deposes and says that
the facts set forth in the foregoing Petition are true and
correct to the best of her knowledge, information and belief.

Nellie L. Gearhart.
Nellie L. Gearhart

Sworn to and subscribed before me this 10th
day of February, 1962.

Lawrence C. Swanson
Notary Public

My Commission Expires Notary Public, DuBois Clearfield Co.
My Commission Expires April 11, 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff

-VS-

NELLIE L. GEARHART
Defendant

No. 261 NOVEMBER TERM, 1961

IN DIVORCE

O R D E R

AND NOW, this Feb 12 day of February, 1962, upon consideration of the foregoing Petition and on motion of LEO R. BROCKBANK, ESQUIRE, Attorney for the Defendant, a Rule is granted on the Plaintiff to show cause why he should not pay the Defendant alimony pendente lite and counsel fees and costs; all further proceedings shall be stayed until the Court has passed upon the Prayer of the Petitioner. Returnable sec. leg.

BY THE COURT

~~President Judge~~

Blakely

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 261 - NOVEMBER TERM, 1961
IN DIVORCE

BENJAMIN F. GEARHART

-VS-

NELLIE L. GEARHART

RULE FOR BILL OF PARTICULARS

(E)

FILED
FEB 12 1962
CARL E. V. E. B.
PROTHMER, JUV

LEO R. BROCKBANK
ATTORNEY AT LAW
SUITE 240, 242, 244 DU BOIS DEPOSIT
NATIONAL BANK BUILDING
DU BOIS, PENNSYLVANIA

Leo R. Brockbank

Served by mail Feb 23, 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART

:

No. 261 NOVEMBER TERM, 1961

-vs-

:


IN DIVORCE

NELLIE L. GEARHART

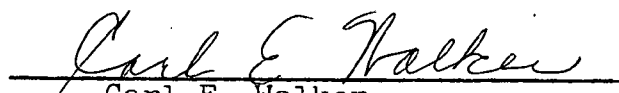
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TO: CARL E. WALKER, PROTHONOTARY:

Enter a Rule on the Plaintiff to file a Bill of Particulars within twenty (20) days after service of the Rule, or non pros. sec. leg.


Leo R. Brockbank
Attorney for Defendant

AND NOW, Feb 12, 1962, a Rule is entered on the Plaintiff as above.


Carl E. Walker
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff

-vs-

BELLIE L. GEARHART
Defendant

No. 261, November Term, 1961

IN DIVORCE

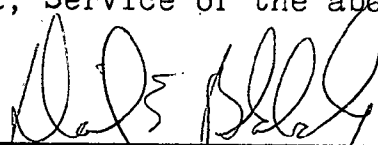
TO CARL E. WALKER,
PROTHONOTARY :

The Rule on the Plaintiff to file a Bill of Particulars
is hereby directed to be marked discontinued.



Attorney for Defendant

AND NOW, March 19, 1962, Service of the above is
hereby accepted by copy.



Attorney for Plaintiff

6
FILED
MAR 20 1962
CARL E. WALKER
PROTHONOTARY

No. 261 NOVEMBER TERM, 1961

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
IN DIVORCE

BENJAMIN F. GEARHART

VS

NELLIE L. GEARHART

AGREEMENT FOR COUNSEL FEES
and
ORDER

FILED

MAR 20 1962

CARL E. WALKER
PROTHONOTARY

LAW OFFICES
AMMERMAN & BLAKLEY
DUBOIS, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff

-vs-

NELLIE L. GEARHART,
Defendant

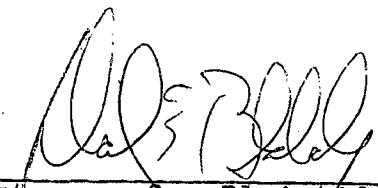
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No. 261 NOVEMBER TERM, 1961

IN DIVORCE

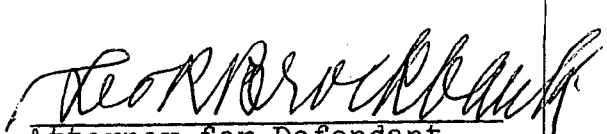
AGREEMENT FOR COUNSEL FEES

Rule to show cause why Plaintiff should not pay Defendant alimony pendente lite, counsel fees and costs, having been granted in the above entitled action, Counsels for the Plaintiff and Defendant hereby stipulate and agree that the Rule shall be made absolute and the Plaintiff, BENJAMIN F. GEARHART, shall be directed to pay to the Defendant or her Counsel, Leo R. Brockbank, the sum of One Hundred Fifty (\$150.00) Dollars as counsel fees and costs.


Attorney for Plaintiff


Attorney for Defendant

Receipt of \$150.00 counsel fees and costs as agreed above is hereby acknowledged.


Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff

-vs-

NELLIE L. GEARHART,
Defendant

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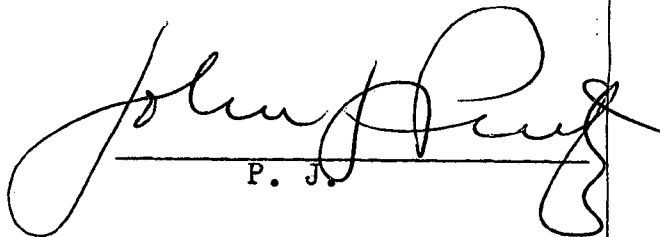
No. 261 NOVEMBER TERM, 1961

IN DIVORCE

ORDER ON PETITION FOR ALIMONY AND COUNSEL FEES

AND NOW, March 15 1962, after agreement reached by Counsel for the parties in the above entitled action, the Rule to show Cause, heretofore granted in this case, is made absolute, and the Plaintiff, BENJAMIN F. GEARHART, is directed to pay to the Defendant or to Leo R. Brockbank, her attorney, the sum of One Hundred Fifty (\$150.00) Dollars, as counsel fees and costs.

By the Court,


P. J.

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|---|-----------------------------------|
| IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. No. 261 NOVEMBER TERM, 1961 IN DIVORCE | |
| BENJAMIN F. GEARHART, Plaintiff | NEILLIE L. GEARHART, Defendant |
| -VS- | |
| MASTER'S REPORT (Uncontested) | |
| James A. Gleason, Esq., \$ 85.00 Master's fee James Thompson, Serving Notice of Hearing 4.50 \$ 89.50 | |
| <div>FILED APR - 6 1962 CARL E. WALKER PROTHONOTARY</div> <div>LAW OFFICES GLEASON, CHERRY & CHERRY 7-10 DAMUS BUILDING DU BOIS, PENNSYLVANIA 109 N. BRADY STREET</div> | |

Now this 6th day of April 1962, I have accepted as bill of Plaintiff
Notice of Plaintiff's demand.
Carl E. Walker
Atty for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BENJAMIN F. GEARHART,
Plaintiff

-vs-

NELLIE L. GEARHART,
Defendant.

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No. 261 NOVEMBER TERM, 1961

IN DIVORCE

NOTICE OF MASTER'S HEARING

To: NELLIE L. GEARHART, late of Luthersburg, Brady Township,
Pennsylvania:

You are hereby notified that the undersigned, JAMES A. GLEASON, Esq., has been appointed Master in the above entitled action, and that a hearing in said cause will be held in the offices of Gleason, Cherry & Cherry, Attorneys at Law, 109 North Brady Street, DuBois, Pennsylvania, on Friday, February 16th, 1962, at 10:00 o'clock A.M., Eastern Standard Time, when and where you may appear with your witnesses, if you so desire.

JAMES A. GLEASON, Esq.
Master

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

:

:

:

SS.

On this, the 30th day of January, 1962, before me, the undersigned officer, personally appeared JAMES THOMPSON, who, being duly sworn according to law, deposes and says that he served the above named Defendant, NELLIE L. GEARHART, with the above notice, by making the contents thereof known to her and giving her a copy of the same at her residence, to wit,
Luthersburg, Pennsylvania,

at or about the hour of 3:00 P. M., January 30th, 1962;
that he knew the Defendant to be the person so served, deriving
his information from the said Defendant; that at the time of ser-
vice thereof, the said Defendant was not in the military service
of the United States, being a civilian and residing at Luthers-
burg, Pennsylvania.

James Thompson

Sworn to and subscribed before me this 30th day of
January, 1962.
~~February~~

Josephine M. Cherry
Notary Public
My Commission expires January 7, 1963.

Service accepted on behalf of the Plaintiff, 1/31/62

AMMERMAN & BLAKLEY

BY

David E. Blakley

In the Court of Common Pleas of Clearfield County, Pennsylvania

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|----------------------|---|-----|----------|------------|
| BENJAMIN F. GEARHART | } | Of | NOVEMBER | Term, 1961 |
| | | No. | 261 | |
| VERSUS | | | | |
| NELLIE L. GEARHART | | | | |
| | | | | |
| | | | | |

DIVORCE

And Now, the 6th day of April 1962, the report of the Master is acknowledged. We approve his findings and recommendations; except as to _____

We, therefore, DECREE that BENJAMIN F. GEARHART be divorced and forever separated from the nuptial ties and bonds of matrimony heretofore contracted between ~~himself~~ himself and NELLIE L. GEARHART. Thereupon all the rights, duties or claims accruing to either of said parties in pursuance of said marriage, shall cease and determine, and each of them shall be at liberty to marry again as though they had never been heretofore married, except that _____

The Prothonotary is directed to pay the Court costs, including Master's fees, as noted herein, out of the deposits received and then remit the balance to the libellant. No Decree to issue until the costs be fully paid. ~~We do further award to the said~~ _____

~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

ATTEST

BY THE COURT

Prothonotary

President Judge

In The Court of Common Pleas
Of Clearfield County, Penna.

No. 261 Nov. Term 19

BENJAMIN F. GEARHART
Libellant

VERSUS

NELLIE L. GEARHART
Respondent

DECREE

Attorney

BENJAMIN F. GEARHART, being duly sworn according to law, testified as follows:

BY MR. BLAKLEY:

Q. Would you state your name ?

A. Benjamin F. Gearhart.

Q. Are you married ?

A. Yes.

Q. To whom ?

A. Nellie L. Gearhart.

Q. When and where were you married ?

A. At the Lutheran parsonage.

Q. Where ?

A. At Luthersburg.

Q. When ?

A. On the 23rd of April, 1969.

Q. Now at the time of your marriage where did you reside ?

A. At my home.

Q. Where is that ?

A. Between Luthersburg and Salem.

Q. Is that in Clearfield County ?

A. Yes.

Q. How long have you resided there ?

A. Since 1936.

Q. And do you still reside there ?

A. Yes.

Q. Are you a citizen of the United States ? Were you born here ?

A. Yes.

Q. At the time of your marriage, where did your wife reside ?

A. She lived in Luthersburg.

Q. Did you and she live together then after the marriage ?

A. Yes

Q. At your home in Luthersburg ?

A. Outside of Luthersburg - you would have to call it Luthersburg, but our Route is R D, DuBois.

Q. Now then, is she a citizen of the United States ?

A. Yes.

Q. Was she born here, do you know ?

A. Yes.

Q. What is your age and occupation ?

A. I'm a laborer - a dock hand, and I'm 59.

Q. Where ?

A. At O. K. Heilman trucking.

Q. And you are regularly employed, are you ?

A. Yes.

Q. And what is your wife's age ?

A. I think she is 57 - I won't say for sure. Maybe 58.

Q. Does she have any occupation ?

A. Not as I know of, No.

Q. You are not in the military service ?

A. No.

Q. And she's not in the military service is she ?

A. No.

Q. Were there any children born as a result of this marriage ?

A. No.

Q. And you had children to a prior marriage - is that correct ?

A. Yes, and so did she.

Q. Now, after you were married, did you go to your own home ?

A. Yes.

Q. And did you provide adequately for her ?

A. I surely did.

Q. Did she seem to be happy in your home ?

A. At first, yes.

Q. For how long ?

A. Well, it's hard to say. At times she was dissatisfied, and at times she wasn't.

Q. What did she seem to be discontented about ?

A. Well, I think on account of the children - it might have been that she couldn't stand children. I don't know.

Q. Your children, you mean ?

A. Yes.

Q. Do your children live near you ?

A. Well, my daughter does, but they only have the one boy and he is 12 years old.

Q. But she couldn't get along with your children, is that right ?

A. Well, I wouldn't ^{say} she couldn't get along. She didn't care to associate with them too much afterwards.

Q. Do any of your children live at home ?

A. My one daughter, yes.

Q. How did she get along with her ?

A. She got along good - at times like children do, once in a while, a girl who is 17 years old and one that is 11 or 12 years old, there is a little dissatisfaction sometimes, and what was a little handicap sometimes, there's two bedrooms, and they slept together.

Q. Who is that, her daughter and your daughter ?

A. Yes.

Q. And do you think your wife didn't try to work this out ?

A. There was a few things brought up that you'd try to work out between the two of them - you don't like to argue. I couldn't argue with people.

Q. Do you think she was unreasonable in her conduct ?

A. Sometimes, yes.

Q. Now, did she make a proper home for you, that is did she cook properly ?

A. Well, she did for a while.

Q. Then she became dissatisfied, is that right ?

A. Yes.

Q. And after that you don't feel that she properly performed her duties ?

A. Well, there was times that she didn't care - like going to work. When you go to work you like to have a good - that you are going to work and expect to get back home, and you like to go in a proper manner. And there was times, that maybe she wouldn't say goodnight to you.

Q. How did you get along with her people ?

A. I got along all right.

Q. Now then, how long did you reside together before you separated ?

A. The last time ?

Q. How many times have you separated ?

A. That would be twice.

Q. You separated twice ?

A. Well, the first time, and then she came back, and then she went again.

Q. How long did you reside together the first time before she left ?

A. The 1st of September from the 23rd of April.

Q. And then you separated ? She left ?

A. Yes.

Q. Did she say why she left ?

A. Just on account of the little bit of arguments with the kids she couldn't take at that time, why it was I don't know.

Q. But she just up and left ?

A. Yes.

Q. After she left, did she take any action or start any divorce or anything ?

A. Yes, she did.

Q. She started a divorce against you ?

A. Yes.

Q. And did she go through with that divorce ?

A. No.

Q. Did you reconcile and get back together ?

A. Yes, and I thought on my part to get it made up, that I was doing right. And then she stopped the divorce.

Q. And you went back together again ?

A. Yes.

Q. How long were you separated that time ?

A. She came back on the 23rd of November - that would be a little over two months.

Q. Two months you were separated ?

A. Yes.

Q. And do you feel that when she left the first time, that you gave her any reason to leave ?

A. I don't know how I did.

Q. Did you try in every way possible to make the marriage a success ?

A. I surely did.

Q. Then after she came back, how long did you live together ?

A. Well, from November until the middle of June.

Q. That was 1961?

A. Yes.

Q. How did you get along this time ?

A. We got along good as long as everything went her way.

Q. But when things didn't go her way, how did you get along ?

A. Well, we never had no arguments, but what could you do, you

just had to put up with it.

Q. With what ?

A. Well, with things that she would do.

Q. What would she do ?

A. Well, there was times she would bring something home, and then she would say "that wasn't bought with your money". Well, I give her money, and I didn't care what anybody buys, that's up to them.

Q. Was this clothing, or food or what ?

A. It was a piece of furniture or something. But she wasn't satisfied in a way. She thought there wasn't room enough. I did offer to build over top of my kitchen, a room, but you can't do those things all at one -

Q. A room for what ?

A. Well, to have another bedroom and clothes space. We were short on clothes space a little, but still we had room enough to put the things.

Q. How big is your house ?

A. Seven rooms.

Q. A seven room house wasn't large enough for her, is that right ?

A. Well, it would have give an extra room for her girl. But still we raised five children in that house and we didn't have no kitchen on it for I don't know how many years.

Q. In other words, she wasn't satisfied with the home ?

A. It's all right to keep fixing up and fixing up, but you can only go so far, in so much time.

Q. Now, the second time she came back, did she perform the duties of a wife adequately during that period of time ?

A. Well, as far as I can say, she did.

Q. Why did you separate again then ?

A. As long as things went, that she had the say-so

Q. If she didn't have the say-so, then things didn't go too well ?

A. Well, I don't know --

Q. Yes, or no ?

A. No, not like a home should go.

Q. When she left the next time then in June of 1961, why did she leave - did she tell you ?

A. Well, I don't know. She thought that there were things that were done or something - I just don't know.

Q. In other words, you don't know why she left ?

A. She just up and left.

Q. During the second time you lived together, did she try to get along with your family and with your -

A. Not too much. There was times that my daughter would put my meals on in the evening, they would eat and she went to school.

Q. They would eat separate from you, you mean ?

A. In the evening, yes.

Q. In other words, she prepared her own meals, but did not prepare your ?

A. Sometimes in the evening, yes.

Q. And finally she just left ?

A. Yes.

Q. And have you ever lived together since June of 1961 ?

A. No.

Q. Has she ever asked to come back ?

A. No.

Q. Did you ever ask her to come back ?

A. Yes.

Q. Is there any agreement between you and her that you are to get this divorce ?

A. No.

Q. During the time you lived with her, did her conduct affect your nerves or your health ?

A. It affected my nerves some, yes. Not only on my account but on my childrens' account.

Q. It bothered your children too ?

A. Yes.

Q. In other words, she upset the whole household is that right ?

A. Partially - it affected my daughter that lived alongside.

Q. That lived beside you, not the one that lived with you ?

A. Yes.

Q. Do you feel that the love and affection upon which a marriage is based does not exist in this case ?

A. It did not.

Q. Do you feel that when she married you she intended to make a proper home for you ?

A. I had all indications that she did.

Q. But did she carry out that ?

A. She did not.

Q. Was her general course of conduct towards you like a wife should be towards her husband ?

A. At first, but why she changed I couldn't say.

Q. After you were married a while, she changed ?

A. Yes.

Q. And after she changed, was her course of conduct as it should have been ?

A. No.

DONNA KRACH, witness for Plaintiff, being duly sworn according to law, testified as follows:

BY MR. BLAKLEY:

Q. Would you state your name ?

A. Donna Krach.

Q. And are you related to Benjamin Gearhart, the plaintiff in this action ?

A. I'm his daughter.

Q. Are you acquainted with his wife ?

A. Yes.

Q. Are you acquainted with their home life ?

A. Yes.

Q. And have you observed their married life ?

A. Yes.

Q. Where do you live in relation to where the plaintiff and defendant reside ?

A. Next door.

Q. And were you in their home at various times ?

A. Yes.

Q. Do you feel that she properly performed the duties of a wife ?

A. No.

Q. Do you feel that there was any love and affection on her part towards the plaintiff here ?

A. At first yes, but later on, no.

Q. How do feel that she treated your father ?

A. I would say sarcastically.

Q. Do you feel that your father's living with her had any effect on his health ?

A. Yes.

Q. In what way ?

A. Yes, it affected his physical health.