

DOCKET NO. 174

NUMBER	TERM	YEAR
<u>661</u>	<u>May</u>	<u>1961</u>

Marjory D. Weber

**VERSUS**

Frederick S. Weber

Clearfield County, ss:

The Commonwealth of Pennsylvania, to ERVIN S. FENNELL, JR., ESQ.,

ERVIN S. FENNELL, JR., ESQ.,

## 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

Marjory D. Weber

Plaintiff ,

and

Frederick S. Weber

, 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 the 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  
13th day of September, in the year of our Lord one thousand nine hundred and  
sixty-one.

W<sup>m</sup> T. Hagerty

~~Brothonotary~~

To the Honorable, the Judge, &c.:

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

John S. Ferrier



COMMISSIONER

No. 661 May Term. 19 61

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Marjory D. Weber

VERSUS

Frederick S. Weber

COMMISSION

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Gleason, Cherry & Cherry Attorney.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA:

MARJORY D. WEBER : No. 661 May Term, 1961  
vs :  
FREDERICK S. WEBER : IN DIVORCE:  
: :  
: :

DOCKET ENTRIES

AUGUST 7, 1961, COMPLAINT IN DIVORCE filed: One copy certified to the Attorney.

NOW, August, 14, 1961, served Frederick S. Weber, Defendant, by sending to him a true and attested copy of the Complaint In Divorce entered to No. 661 May Term, 1961, by Registered Mail, Deliver to Addressee Only, with Return Receipt Requested; said Attested copy of the Complaint was delivered to the said Frederick S. Weber on August 9, 1961 as shown by the Return Receipt which is attached hereto. So answers, Edward V. Cherry, Attorney for Plaintiff.

NOW, September 13, 1961, by motion on the watch-book, Ervin S. Fennell, Jr., Attorney, is appointed Master to take the testimony and report the same with form of Decree.

Certified from the record this 14th day of September, A. D., 1961

Wm T. Hagerty  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARJORY D. WEBER : No. 661 MAY TERM, 1961  
-vs- : IN DIVORCE  
FREDERICK S. WEBER :

COMPLAINT

Now comes MARJORY D. WEBER, Plaintiff above named, and brings this Complaint in Divorce against her husband, FREDERICK S. WEBER, on a cause of action whereof the following is a statement:

1. That the name of the Plaintiff is MARJORY D. WEBER and the name of the Defendant is FREDERICK S. WEBER.
2. That both parties are adults and competent.
3. That the said Plaintiff and Defendant were married <sup>in</sup> on June 22, 1956, DuBois, Pennsylvania.
4. That at the time of the said marriage, the Plaintiff and Defendant were natural born citizens of the United States, said Plaintiff having resided in the Commonwealth of Pennsylvania all her life.
5. That the present residence of the Plaintiff is 132 South Brady Street, DuBois, Pennsylvania; and the present residence of the Defendant is 4241 Colorado Avenue, Lorain, Ohio.
6. That there were no children born to this marriage.
7. That no prior divorce action has been instituted by either party.
8. That in violation of his marriage vows and the laws of this Commonwealth, the said Defendant has offered such indignities to the person of the Plaintiff as to render her condition intolerable and life burdensome.

9. That the said defendant has wilfully absented himself from the habitation of the plaintiff and has wilfully and without just cause deserted said plaintiff for a period of three years and upwards, to wit, from October 15, 1957, until the present date.

10. This action is not brought out of collusion.

WHEREFORE, the plaintiff prays that she be freed and separated from the bonds of matrimony heretofore contracted between the said Plaintiff and Defendant and be granted a decree in divorce a vinculo matrimonii dissolving the bonds of the said marriage.

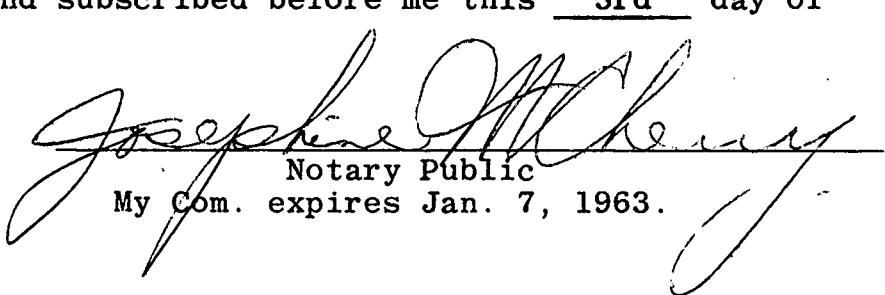
Maryang D. Weber

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF CLEARFIELD : SS.

Personally appeared before me, a Notary Public, in and for the County and State aforesaid, MARJORY D. WEBER, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge and that the same is not made out of levity or by collusion between herself and the said Defendant for the mere purpose of being freed and separated from each other, but in sincerity and truth for the causes mentioned in the Complaint.

Marjory D. Weber

Sworn to and subscribed before me this 3rd day of August, 1961.

  
Josephine M. Henry  
Notary Public  
My Com. expires Jan. 7, 1963.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 66 MAY TERM, 1961  
IN DIVORCE

MARJORIE D. WEBER

-vs-

FREDERICK S. WEBER

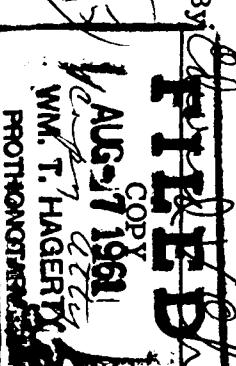
COMPLAINT

TO WITHIN NAMED DEFENDANT:

You are hereby notified  
to plead to the enclosed  
Complaint within twenty (20)  
days from the service hereof.

GLEASON, CHERRY & CHERRY  
Attorneys for Plaintiff

By W. T. Hager

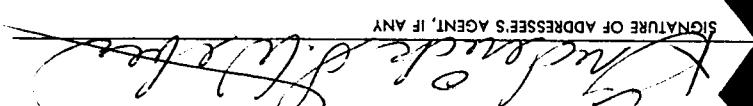


GLEASON, CHERRY & CHERRY  
7-10 DAMUS BUILDING  
Du BOIS, PENNSYLVANIA

109 N. BRADY STREET

100 ACT

55-16-71548-4 GPO

<b>#1-INSTRUCTIONS TO DELIVERING EMPLOYEE</b>	
<b>RECEIVED</b>	
<input type="checkbox"/> Deliver ONLY to	<input type="checkbox"/> Show address where
<input type="checkbox"/> Addressee	<input type="checkbox"/> Addressee
(Additional charges required for these services)	
<b>RETURN RECEIPT</b>	
Received the numbered article described on other side.	
SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)	
	
SIGNATURE OF ADDRESSEE'S AGENT, IF ANY	
<b>DELIVERY TO ADDRESSEE ONLY</b>	
DATE DELIVERED	ADDRESS WHERE DELIVERED (only if requested in item #1)

<b>POST OFFICE DEPARTMENT.</b> <small>OFFICIAL BUSINESS</small>		<small>PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300</small>	
		<small>POSTMARK OF DELIVERING OFFICE</small>	
<b>INSTRUCTIONS:</b> Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article <b>RETURN RECEIPT REQUESTED</b> .			
<small>POD Form 3811 Jan. 1958</small>	<input checked="" type="checkbox"/> <b>RETURN TO</b>		
REGISTERED NO.	NAME OF SENDER		
279	Aleson Cherry & Cherry		
CERTIFIED NO.	STREET AND NO. OR P. O. BOX		
INSURED NO.	CITY, ZONE AND STATE		
DuBois, Pa.			

C55-16-71548-4

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARJORY D. WEBER : No. 661 MAY TERM, 1961  
-vs- : IN DIVORCE  
FREDERICK S. WEBER :

RETURN OF SERVICE OF COMPLAINT

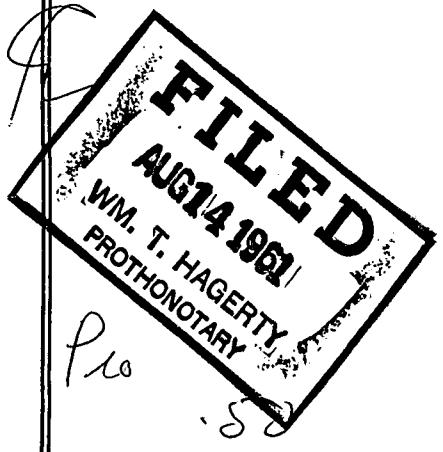
Now, August 14, 1961, served FREDERICK S. WEBER, Defendant,  
by sending to <sup>him</sup> her a true and attested copy of the Complaint in  
Divorce entered to No. 661, May Term, 1961, by Registered Mail  
Deliver to Addressee only with Return Receipt Requested; said  
attested copy of the Complaint was delivered to the said FREDERICK  
S. WEBER on August 9, 1961 as shown by the <sup>return</sup> Receipt which  
is attached hereto.

So Answers,

*Edward V Cherry*  
Attorney for Plaintiff

Sworn to and subscribed before me this 12th day of  
August, 1961.

*Josephine M Cherry*  
Notary Public  
My Com. expires Jan. 7, 1963.



MASTER'S NOTICE

To: FREDERICK S. WEBER  
MARJORY D. WEBER

You are hereby notified that I have been appointed Master in the divorce action of Marjory D. Weber v. Frederick S. Weber at No. 661 May Term, 1961 in the Court of Common Pleas of Clearfield County, Pennsylvania, and that I will hold a hearing for the purpose of taking testimony in the said case at the Robert V. Maine Law Offices, 228 DuBois Deposit National Bank Building, DuBois, Pennsylvania, on Friday, October 13, 1961 at 4:00 p. m., when and where you may attend with witnesses if you so desire.

Ervin S. Fennell, Jr.  
Master

Service accepted this  
19th day of September 1961  
by Pleasant Cherry & Cherry  
by Edward V. Cherry

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**#1-INSTRUCTIONS TO DELIVERING EMPLOYEE**

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Deliver **ONLY** to  
addressee       Show address where  
delivered

*(Additional charges required for these services)*

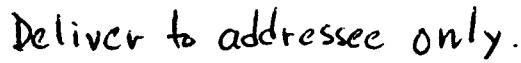
**RETURN RECEIPT**

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)



SIGNATURE OF ADDRESSEE'S AGENT, IF ANY



**Deliver to addressee only.**

DATE DELIVERED

9/21/61

ADDRESS WHERE DELIVERED (only if requested in item #1)

C55-16-71548-4 GPO

POST OFFICE BUSINESS PENALTY FOR PRIVATE USE OF POSTAGE, \$300		RECEIVED POSTMASTER OF DELIVERING OFFICE
PAWNEE CITY, OKLAHOMA		SEP 21, 1941 11:30 AM C-13
INSTRUCTIONS: Fill in items below and com- plete # on other side, when applicable. Print gummed ends and attach to back of article. Print please # on front of article. Return Receipt Reqd. to front of article. Mail to RETURN TO REGISTERED NO. ERVIN S. FENNEL, JR.		
CERTIFIED NO. 842951 STREET AND NO. OR P. O. BOX CITY, ZONE AND STATE INSURED NO.		
228 DuBois Drive, Nutt, Okla.		

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARJORY D. WEBER

: No. 661 May Term, 1961

v.

: In Divorce

FREDERICK S. WEBER

:

RETURN OF SERVICE OF MASTER'S NOTICE

NOW, September 25, 1961, served Frederick S. Weber, defendant, by sending to him a copy of the notice of the Master's hearing at the above term and number by certified mail marked "Deliver to Addressee Only" with Return Receipt Requested; said copy of the Master's notice was delivered to the said Frederick S. Weber on September 21, 1961 as shown by the return receipt which is attached hereto.

Elwin S. Fenner Jr.  
Master

Subscribed and sworn to before

me this 25th day of September, 1961.

Mrs. Jean M. Weaver

JEAN M. WEAVER, Notary Public  
CLEARFIELD COUNTY, PA.  
My Commission Expires Sept 12, 1964

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARJORY D. WEBER

v.

No. 661 May Term, 1961

FREDERICK S. WEBER

MASTER'S REPORT

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE:

The undersigned Master, appointed by the Court to take testimony and report the same with form of Decree, represents as follows:

SCHEDULE

1. Complaint in Divorce: Complaint filed August 7, 1961. One copy certified to attorney,

2. Service: Service of the Complaint was made upon the defendant by sending to him a true and attested copy of the Complaint by Registered Mail, Deliver to Addressee Only, with Return Receipt Requested; said attested copy of the Complaint was delivered to the defendant on August 9, 1961 as shown by the Return Receipt which is attached hereto,

3. Appointment of Master: Ervin S. Fennell, Jr. was appointed Master on September 13, 1961.

4. Date and Place fixed for Hearing: The Master's hearing was scheduled for October 13, 1961 at 4:00 p. m. In the Robert V. Maine Law Offices, 228 DuBois Deposit National Bank Building, DuBois, Pennsylvania.

5. Notice of Master's Hearing: Service of the Master's Notice was made by the Master by certified mail, return receipt requested, on September 21, 1961, as appears from the enclosed Return of Service of Master's Notice with certified mail return receipt attached,

6. Master's Hearing: The Master's Hearing was held at the time and place aforesaid. Edward V. Cherry appeared as attorney for the plaintiff, who appeared in person. No other witnesses appeared for plaintiff. The defendant did not appear in person or by counsel. Testimony was taken in question and answer form.

CAUSE OF DIVORCE

Desertion

FINDINGS OF FACT

1. Marriage: The plaintiff and defendant were married in DuBois, Pennsylvania on June 22, 1956.

2. Residence and Citizenship: The plaintiff and defendant are natural born citizens of the United States. They lived in Falls Creek after their marriage until October of 1957, at which time the defendant left the plaintiff. The plaintiff then moved to DuBois, where she has been living since that time, her present address being the Moose Apartments on Brady Street. The present address of the defendant is 4241 Colorado Avenue, Lorain, Ohio.

3. Ages and Occupations: The age of the plaintiff is 40 and that of the defendant is 40. The plaintiff is employed by Jeffers Electronics in DuBois and the defendant is employed as a truck driver for the Ford Motor Company in Lorain, Ohio.

4. Children: There were no children born to this marriage.

5. Armed Forces: Neither the plaintiff nor the defendant is a member of any branch of the armed forces of the United States, as appears from the attached testimony.

6. Findings on the Merits: The evidence submitted in support of the charge of desertion justifies the following findings:

(a) For sixteen months after their marriage plaintiff and defendant lived in Falls Creek, Pennsylvania. After a weekend of arguments and general marital discord, defendant left plaintiff on October 15, 1957, proceeded to his place of employment and never returned to the marital abode. To the present time defendant has never attempted to resume the marital relationship with plaintiff and has continuously absented himself from his wife's presence since deserting her. Plaintiff stated in her testimony that she did not give defendant any reason or cause to leave her.

(b) The plaintiff was a good and dutiful wife.

(c) There is no evidence of collusion to obtain a divorce.

## DISCUSSION

In the opinion of the Master the charge of desertion was established by the testimony of the plaintiff. The defendant's actions clearly established a wilful and malicious desertion of plaintiff in excess of the statutory period of two years. It has many times been held that a decree in divorce may be supported by the testimony of the plaintiff alone. *Macormac v. Macormac*, 159 Pa. S. 378; *Kett v. Kett*, 117 Pa. S. 236.

There is nothing in the testimony to show that the plaintiff by her words or conduct said or did anything to justify the conduct of the defendant.

## CONCLUSIONS OF LAW

1. The Court has jurisdiction of the subject matter and the parties.
2. The defendant is guilty of the desertion of the plaintiff, contrary to subsection 1(d) of the Act of May 2, 1929, P. L. 1237, section 10, and (23 P. S. 10), as supplemented and amended.
3. The proceedings conform to the rules of Court and the requirements of the law.
4. The plaintiff is an injured and innocent spouse.

## RECOMMENDATION

The Master recommends a Decree granting Marjory D. Weber a divorce a vinculo matrimonii from Frederick S. Weber, a form of Decree being hereto attached.

Respectfully submitted,

*Ewm S Fawcett Jr*  
Master

In the Court of Common Pleas of Clearfield County, Pennsylvania

MARJORY D. WEBER, Plaintiff } Of May Term, 19 61  
{ No. 661  
  
**VERSUS**  
FREDERICK S. WEBER, Defendant } **DIVORCE**

# DIVORCE

And Now, the 23<sup>rd</sup> day of Oct. 1961, the  
report of the Master is acknowledged. We approve his findings and recommendations; ~~xxxxxx~~  
xxxxxx

*We, therefore, DECREE that* MARJORY D. WEBER *be*  
*divorced and forever separated from the nuptial ties and bonds of matrimony heretofore con-*  
*tracted between* himself *and* FREDERICK S. WEBER *herself* *.*

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, ~~xxxxxx~~

*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 \_\_\_\_\_ Master a fee \_\_\_\_\_*

of \$85.00 and his ~~their~~ costs expended in this action.

ATTEST  
  
Mr. J. Hagedorn  
Prothonotary

**BY THE COURT**

BY THE COURT  
  
John H. Ford  
President Judge

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

No. 661 May Term 19 61

**MARJORIE D. WEBER**  
*Libellant*

*VERSUS*

**FREDERICK S. WEBER**  
*Respondent*

**DECREE**

*Attorney*

MARJORY D. WEBER, being produced and sworn testifies as follows:

BY MR. CHERRY:

Q. When and where were you married?

A. June 22, 1956 at DuBois, Pennsylvania.

Q. Where did you reside when you were first married?

A. Falls Creek, Pennsylvania.

Q. Is that in Jefferson County?

A. Yes, it is.

Q. How long did you reside at this residence in Falls Creek, Pennsylvania?

A. June, 1956 to October, 1957.

Q. Then where did you and your husband reside?

A. That's when my husband left me and I moved to DuBois Street, DuBois, Pennsylvania.

Q. How long have you lived at this residence on DuBois Street, DuBois, Pennsylvania?

A. I lived there about six months .

Q. And then where did you move to?

A. Brady Street in DuBois.

Q. And how long did you live at this residence on Brady Street, DuBois, Pennsylvania?

A. One year.

Q. Where did you move to then?

A. In the Moose apartment on Brady Street.

Q. And that's in DuBois, Pennsylvania?

A. Yes, it is.

Q. Is that where you live at the present time?

A. Yes, it is.

Q. Are you a citizen of the United States?

A. Yes, I am.

Q. Is your husband a citizen of the United States?

A. Yes.

Q. What is your age and occupation?

A. I'm forty and I work at Jeffers.

Q. Jeffers, is that a factory in DuBois, Pennsylvania?

A. Yes, it is.

Q. What is the age and present occupation of your husband, the Defendant in this case?

A. He is forty years old and he is a Truck Driver for Ford Motors, in Lorain, Ohio.

Q. Do you know the present residence of your husband?

A. 4241 Colorado Avenue, Lorain, Ohio.

Q. Were there any children born to this marriage?

A. No.

Q. What would you say was the chief cause of your marital difficulty?

A. The interference of his mother in our marriage.

Q. In what way would this cause trouble in your household?

A. She was always interfering, she insisted that I do things her way. She wanted me to run my house the way she told me to, and he thought I should listen to her.

Q. And was this the constant source of trouble in your household?

A. Yes, it was.

Q. Mrs. Weber, you stated your complaint for divorce that your husband deserted you for a period of three years and upwards starting as of October 15, 1957, would you mind telling us

what happened on October 15, 1957?

A. Well, we argued this one weekend and he went back to work and didn't come back.

Q. And have you been separated ever since from that date?

A. Yes, we have.

Q. And has your husband made any effort to resume marital relationship with you from that date?

A. No.

Q. Did you give him any reason or cause for him to leave you?

A. I don't believe I did. I always prepared his meals for him when he was home and took care of his clothes, and kept the home up. I just wouldn't listen to his mother and she always interfered and I just couldn't put up with it, so we argued every weekend. So the last argument we had he got mad and went out of the house with his clothes and just didn't come back.

Q. So he made no effort to resume this marital relation with you from the date that he left, October 15, 1957, until the present date?

A. No, he hasn't.

Q. Were there any children born to this marriage?

A. No, there weren't.

Q. Have you heard at all from your husband since the date of the desertion, October 15, 1957, to the present date?

A. Yes, he's written me a few letters in the last year asking me to get a divorce.

Q. And is that the reason why you brought this divorce action?

A. No, that is not the reason. I just decided myself

that we would never get back together again so I decided to get a divorce on my own.

Q. So, Mrs. Weber you state that you did not do anything that would cause your husband to desert you, is that correct?

A. That is right.

*Mrs. Marjory Weber*

BY THE MASTER:

Q. Are you a member of any branch of the armed forces, Mrs. Weber?

A. No, I am not.

Q. Is your husband, Frederick S. Weber, a member of any branch of the armed forces:

A. No, he is not.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 661 May Term, 1961

MARJORIE D. WEBER, Plaintiff

v.

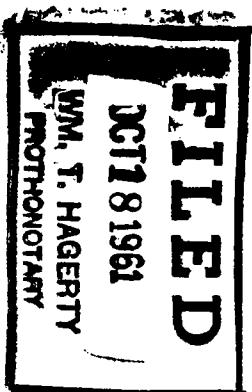
FREDERICK S. WEBER, Defendant  
In Divorce

Uncontested

Master's Report  
and  
Decree

Awarded to Ervin S. Fennell,  
Jr., Master

Fee	\$85.00
Postage	<u>.74</u>
	\$85.74



ROBERT V. MAINE  
ATTORNEY-AT-LAW  
DUBOIS, PA.

Service of the Within Master's Report  
Accepted and Served Waived this 16th day of Oct, 1961

By Edward V. Cherry

J