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## AFFIDAVIT

JAMES E. LAND states on oath:  
he represents Richard Westerlund and Adeline Westerlund  
in the sale of the real estate described on exhibit A  
attached hereto to Bryan and Gwynn Witt.

Affiant further states: he drew the judgment of  
divorce in cause # 34033546 and has personal knowledge  
the real estate described in exhibit A is the same as  
the marital home mentioned in said judgment and that  
said sellers have agreed to divide all proceeds of sale  
equally as is required by the decree.

*[Signature]*  
James E. Land, LLC

Subscribed and sworn to before me this \_\_\_\_ day of March, 1988.

*[Signature]*  
Notary Public



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LOT FOUR

In 4th. Addition to Almar Meadows, being a subdivision of part of the West Half (½) of Section 14, Township 36 North, Range 14, East of the Third Principal Meridian, lying North of the Little Calumet River, according to Plat thereof registered in the Office of the Registrar of Titles of Cook County Illinois, on February 8, 1967, as Document Number 2311175.

59-14 - 149-025 - CTC

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Subject to the Estates, Easements, Incumbrances and Charges noted on the following memorials page of this Certificate.

Witness My hand and Official Seal

this TWENTY-SEVENTH (27th) day of JANUARY 1969

EVJ 1/27/69

Registrar of Titles, Cook County, Illinois.

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LICATON NO 3373

UMENT NO 2432804

VOLUME 2140-1 PAGE 87

CERTIFICATE NO 1067172

PERMANENT

TAX NUMBER

OWNER RICHARD J. NESTERLUND, ET. UX.

MAI 25 1973

Anderson & Son  
Baltimore Ave.,  
Illinois - 60633

OWNERS DUPLICATE

**CERTIFICATE  
OF TITLE**

Date Of First Registration

FEBRUARY FOURTH (4th) 1910

TRANSFERRED FROM  
CERTIFICATE NO 1045527

**CAUTION**

All documents in any way affecting the title to the premises described within must be filed in the Registrar's Office and in order to save inconvenience and delay kindly follow the legal description on Certificate and by so doing you will help the efficiency of the Torrens System and the public in general.

SIDNEY R. OLSEN  
Registrar of Torrens TitlesSTATE OF ILLINOIS )  
COOK COUNTY )

I Sidney R. Olsen Registrar of Titles in and for said County, in the State aforesaid, do hereby certify that

RICHARD J. WESTERLUND AND ADELINE A. WESTERLUND  
(Married to each other)  
NOT IN TENANCY IN COMMON, BUT IN JOINT TENANCY

of the VILLAGE OF DOLTON County of COOK and State of ILLINOIS

ARE the owners of an estate in fee simple, in the following described land situated in the County of Cook and State of Illinois.

**DESCRIPTION OF LAND**

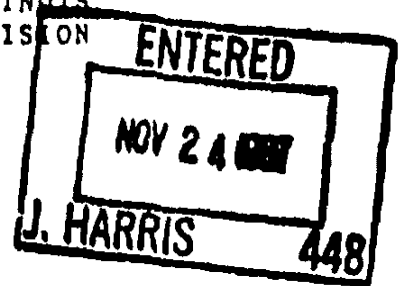
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT-DOMESTIC RELATIONS DIVISION

IN RE: THE MARRIAGE OF )  
WESTERLUND, *ADELINNE* )  
Petitioner )

VS. )

NO. 84D22546 )

WESTERLUND, *RICHARD* )  
Respondent )



JUDGEMENT FOR DISSOLUTION OF MARRIAGE

This cause having been assigned for hearing as a contested trial for Dissolution of Marriage on the grounds of mental cruelty and both parties having been represented by their respective attorneys.

Every facet of the case was contested except there was a stipulation as to the property of the parties.

FACTS:

The Petitioner testified that she is 55 years of age and that the parties were married on September 21, 1963 at Chicago, Illinois. There was one child born of the marriage who is 21 years of age and going to nursing school.

She testified to a course of conduct by Respondent going back to when the child of the parties was in her arms. It was climaxed by the Respondent shouting out in a crowded restaurant that he wanted a divorce.

She testified that she is a secretary making a salary of just over \$500 every two weeks with a pension valued at \$7200. She further testified that at the time of the marriage that she had a savings account that she kept separate, now in the amount of \$16,691 and in

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*Transcribed by [illegible]  
Cook County Clerk's Office*

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I HEREBY CERTIFY THE ABOVE TO BE CORRECT.

DATE 3-1-88

*Marjorie M. Loring*

CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILL.

THIS ORDER IS THE COMMAND OF THE CIRCUIT

COURT AND VIOLATION THEREOF IS SUBJECT TO THE

PENALTY OF THE LAW

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1970 she inherited \$12,270 from her father and deposited \$10,000 in the bank and the present value of that account is \$39,052. She has a \$11,631 IRA that total was the result of her adding \$2000.00 from her separate account. She further testified that the parties have a home that is paid for (the value was stipulated at \$59,000 based on a 1985 appraisal); a 1983 car; a \$7300 IRA in Respondent's name, \$1600 account in Respondent's name; a joint account of \$27,084; household furnishings and Respondent's pension.

She further testified that Respondent would not work but wanted to get maintenance (alimony) from her.

Respondent admits that he announced in a crowded restaurant that he wanted a divorce but states that he was provoked by Petitioner's "harassment for him to get a job."

He testified that he worked for 17 years during the marriage at Wisconsin Steel as a fire brick layer. The plant was closed in 1980 and he was without a job and he has not attempted any training or schooling in another field to find employment.

His testimony is conflicting as to his jobs since 1980, his membership in his union and as to his present ability to work. It ranges from jobs as a brick layer at \$15.00 per hour to a janitorial job at \$2.00 an hour at the Flossmoor High School (well below the minimum wage). He indicated that might have worked the last 3 years after he lost his Wisconsin Steel job. He stated that he has not worked since the Dissolution proceeding was filed (in the last three years) and has had an ulcer operation, an abscess removed and a hernia operation. His testimony indicates that "I have repeatedly looked for

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DATE 3-1-88

Margaret M. Lanning  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILL.

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a job to 2-300 times per year. He was given an opportunity to bring in his Doctor to testify as to his present physical condition but he did not. His last operation was a hernia operation which occurred in April of 1987.

Respondent stated that his wife uses the car to drive back and forth to work. He admitted on cross examination that his wife had a savings account before they were married and that she inherited money from her father during the marriage that was in an account in her name and did not know whether Petitioner ever put any marital money in the account.

In connection with the Petitioner's accounts it developed that Respondent had been named as a beneficiary on her accounts and that one or both of Petitioner's accounts named her as Trustee.

The evidence further reflected that the Respondent has a pension or an award from the Federal Government in the amount of \$4000 a year and that he is a member of a class action suit to recover various benefits including certain pension, retirement and other benefits.

One of the contentions of the Petition was that Respondent said he would not get a job as he was going to get alimony from the Petitioner, a fact that was borne out by Respondent's petition for temporary maintenance that was denied. Respondent denied telling Petitioner this and that he filed the petition.

This was a very hotly contested trial with many interruptions and numerous none evidentiary objections and a great deal of leading in direct examinations.

Much of the time of the trial involved areas that could or should

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Margaret M. [Signature]  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILL.

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have been established by adequate discovery.

An issue was developed by Respondent's effort to sustain his position that he had contracted to pay \$275.00 as rent in a trailer park instead of \$175.00 he had actually contracted for. Respondent's testimony was definitely evasive with the obvious desire to perjury himself. The Respondent's attorney took issue with the court and asked for a mistrial which was denied. A later stipulation revealed that Respondent had contracted for \$175.00 and not \$275.00 as he testified.

Respondent indicated some concern about compliance with discovery by Petitioner. Apparently the information was furnished. Certainly the court will enforce the rules of discovery even to sanctions if a lawyer purposely fails to respond to discovery.

## The Court Finds:

That after observing the witnesses, considering their demeanor and determining their credibility, the Court finds the Respondent was a witness lacking in candor.

That the Petition has proved her grounds (mental cruelty) for Dissolution.

The Petitioner is an able body person and is employed and is capable of supporting herself.

That Respondent has had three operations and worked on his job for seventeen years as a brick layer and has not had a sustaining job since 1980. He has had a job as a brick layer paying \$15.00 an hour since 1980. Although he has not acquired any additional training or education in a new field he is a brick layer and should

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DATE 2-1-58

Maeg. L. L. L.  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILL.

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be able to get employment if he had a sincere desire to do so.  
There's no adequate evidence of his inability to work.

That the following is marital property:

<u>ITEM</u>	<u>VALUE</u>
Marital Home	\$59,000
1983 Ford	not stated
IRA	7,300
Bank Account	1,600
Joint Bank Account	27,084
*IRA	11,631
Household Furnishing	not stated
Petitioner's Pension	7,000
Respondent's Pension	4,000 PA

\*Petitioner deposited \$2000 to her marital IRA, the money came from her non-marital account. The \$2000 was transmuted and became marital property when it was commingled with the marital IRA.

## NON-MARITAL PROPERTY of PETITIONER

It is the unrefuted testimony that Petitioner inherited \$10,000 that was deposited in her name alone and renamed in her name and was never commingled with any marital property (now \$39,052).

The evidence is the same on the \$15,091 account she had at the time of the marriage, while she withdrew funds for the benefit of the marriage she never made any marital deposits.

In both accounts she had various beneficiaries including Respondent none of them (beneficiaries) had a vested interest.

The evidence of Respondent's drinking has no relevance in these proceedings.

Respondent's allegations that he did not want a divorce because he is a catholic has little merit considering his conduct toward Petitioner and his involvement with the "single unmarried" groups.

Petitioner has been the basic provider in the marital house since 1980.

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DATE 3-1-88

*Maureen M. Lanning*  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILL.

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IT IS THEREFORE ORDERED:

1. That a Judgment of Dissolution issue dissolving the marriage of the parties.
2. That the question of college expense (nursing school) shall be reserved for further order of this court.
3. That the property division follows:

## MARITAL PROPERTY

<u>PETITIONER</u>	<u>ITEM</u>	<u>RESPONDENT</u>
\$29,500.00	*Marital Home	\$29,500.00
	value \$59,000	
13,542.00	Joint Bank Account	13,542.00
	\$27,084.00	
5,815.50	IRA	5,815.50
	\$11,631.00	
3,650.00	IRA	3,650.00
	\$7,300.00	
800.00	Savings Account	800.00
	\$1,600.00	
as agreed	Household Furnishings	as agreed
all	1983 Ford	none
**7,000.00	Pensions	** 4,000.00 PA
TOTAL		

\*The marital home will be put up for sale immediately and the proceeds will be divided equally after the expense of sale.

\*\*Each party is awarded their own pensions free of any claim of the other.

## NON-MARITAL PROPERTY

\$39,057.00 - Savings to Petitioner  
\$16,691.00 - Savings to Petitioner

To Respondent: Maintenance is barred for both parties.

Petitioner shall be responsible for Respondent's medical bill of \$3,074.00 either by referral to her insurance company or by payment.

The Petitioner will execute the necessary documents for a spinoff on her present medical insurance, within 30 days for benefit of Respondent.

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That each party will pay their own attorneys fees.

The Court shall retain jurisdiction of this matter until this judgment is complied with.

Dated: \_\_\_\_\_

NOV 24 1987

ENTER:

JUDGE.

*Amos P. Hines*

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I HEREBY CERTIFY THE ABOVE TO BE CORRECT.

DATE 3-1-88

Margaret M. [Signature]

CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILL.

THIS ORDER IS THE COMMAND OF THE CIRCUIT

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT - DOMESTIC RELATIONS DIVISION

IN RE: THE MARRIAGE OF

ADELINE WESTERLUND

Petitioner

and

RICHARD WESTERLUND

Respondent

No. 84 D 22546

## MOTION TO MODIFY JUDGMENT AFTER BENCH TRIAL

Comes Now the Respondent, RICHARD WESTERLUND, by and through his attorney, GARY M. KURC, and moves this Honorable Court to modify its Judgment for Dissolution of Marriage entered November 24, 1987, and in support thereof states as follows:

1. That the Judgment for Dissolution fails to dispose of all the marital assets of the parties, namely, a certain bank account in the name of the Petitioner in the approximate amount of \$3,000.00 created when the Petitioner withdrew and divided a certain joint account, giving one-half thereof to herself and one-half to Respondent. That Respondent's half is reflected in the account listed in the judgment as being in the approximate amount of \$1,600.00

2. That the account listed in the judgment in the approximate amount of \$1,600.00 was not properly valued as the evidence thereof indicated that the balance was in fact \$400.00 (R152). That since the testimony was taken, Respondent has had to supplement his income of \$331.00 per month by drawing upon this account, and there remains only \$200.00 of that account.

3. That the Court erred in failing to award maintenance to Respondent by finding that Respondent could work if he wanted to when in fact there was no evidence presented supporting that fact. In fact the evidence was to the contrary (R117-119)

4. That the Court improperly ruled on the issue of attorney's fees without determining need and ability. That given the exceedingly disproportionate division of marital and non marital property and given further that the Respondent is without substantial income and cannot reach a substantial

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asset until it is sold, making him responsible for his own attorney's fees, is inequitable and unjust. That Petitioner given her circumstance should be responsible for the attorney's fees of Respondent.

5. That the Court failed to give consideration to the manner of acquisition and preservation of marital and non-marital funds when it divided equally all the marital assets and awarded the non-marital assets to Petitioner. That the evidence indicated that Petitioner was allowed to keep and maintain her non-marital assets because Respondent, alone worked continuously, and provided for Petitioner and Respondent's children. That Petitioner was able to preserve her assets by the efforts of Respondent. Accordingly Respondent should have been given a compensatory award of marital assets.

WHEREFORE Respondent moves that this Court modify the Judgement For Dissolution of Marriage in the following respects:

A. That the account in the amount of \$3,000.00 standing in the name of the Respondent be subject to equitable division;

B. That Respondent be awarded maintenance in an amount which this Court deems equitable and just;

C. That Petitioner be ordered to pay Respondent's reasonable attorney's fees and expenses;

D. That the Court reapportion the marital assets to properly reflect the Respondent's contribution to the acquisition and preservation of all assets; and

E. For such other and further relief as to this Court seems equitable and just.

  
ATTORNEY FOR RESPONDENT

GARY M. KURC #50325  
Attorney for Respondent  
14207 Chicago Rd.  
Dolton, Illinois 60419  
(312) 841-6060

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