

FINDING OF FACT AND CONCLUSIONS OF LAW.

BACKGROUND OF THE MARRIAGE AND PROCEDURAL HISTORY

1. The parties are citizens and residents of Clarendon County, State of South Carolina, and this Court has jurisdiction over all the parties and subject matter herein.
2. Plaintiff ("Husband") and Defendant Simpson ("Wife") were legally married on September 3, 1989. At that time, Husband was 20 years of age, and Wife was 17 years of age. Two (2) children were born of this marriage: William Robert Simpson on July 30, 1991, and Lynda Kaitlin Simpson on June 26, 1995. The parties last lived together on or about August 4, 2004.
3. Wife graduated from high school after the marriage. Husband completed high school and had some college before going into the farming business with his father.
4. At the time of the marriage Husband and Wife lived in a trailer on husband's parent's land. Wife had approximately Six Thousand Dollars (\$6,000.00) in Certificate of Deposit that she had inherited. Husband had no assets. They used Wife's funds to purchase a larger mobile home.
5. Through out the marriage the Husband worked continuously with his father in the farming business. Husband was also able to acquired additional land without the help of his father in which he farmed as well.
6. The Wife worked various jobs for short periods of time but her clear responsibility and priority through out the marriage were the parties' home and their children. When the younger child began kindergarten at Clarendon Hall, the private school where both children attended, Wife began working at the school. She first

worked in the lunchroom and thereafter as a preschool teacher for three-year olds. Her employment resulted in not only income that went toward the marriage, but also a fifty percent (50%) reduction in the children's tuition. Her position was terminated in the summer of 2004, shortly before this action was commenced.

7. Wife made efforts to become educated during the marriage. She attended nursing school on two occasions but was unable to complete the programs.

8. Husband was made a party to his parent's marital litigation in this Court in early 2003 because of his 50% interest in the Simpson Farm, LLC, a portion of which was marital property in that case. The Honorable R. Wright Turbeville issued a decree on December 31, 2003 in that case, *Daisy W. Simpson vs. William R. Simpson, Jr., et al*", 2003-DR-14-128 (Defendant's Exhibit 10 herein). The litigation between Husband's parents caused much conflict and turmoil in the entire Simpson family.

9. In early 2004, Wife began exhibiting uncharacteristic behavior. Wife's emotional condition soon required medical treatment and prescription medications. The Husband terminated Wife's insurance coverage during her treatment and refused to pay her medical and pharmacy bills. This forced Wife to go to the Clarendon Mental Health Clinic and report that she was separated from Husband so she could be placed on a low-income program to get free medication.

10. Due to the mother's emotional problems she was unable to have custody of the children upon the parties separation. On one occasion the problems between Wife and the son ended in a physical altercation. In fact, the Wife still does not even visit with the son. Husband has maintained custody of both children since the separation.

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11. On or about July 30, 2004, Husband took Wife, accompanied by her elderly grandfather, to his attorney who had prepared a separation agreement for Husband and Wife to sign. Wife signed the agreement. It was then approved by The Honorable George E. McFadden and made the order of the family court on August 20, 2004. Subsequently, Wife filed a motion to set aside the agreement. This motion was granted by Judge McFadden on January 6, 2005.

12. After Wife moved to set aside the agreement, on September 23, 2004, Husband brought an action for divorce in case # 04-DR-14-315 upon the ground of Wife's adultery.

13. A temporary hearing was held on January 7, 2005 after which The Honorable Marion D. Myers issued a Temporary Order dated February 8, 2005. This Order required as follows: Husband to immediately pay Wife Thirty-Seven Thousand, Five Hundred Dollars (\$37,500.00) as an advance against equitable division or attorneys' fees; restrained the parties from disposing of marital assets and from personal contact; appointed a *Guardian ad Litem* for the children; granted discovery; and granted the paternal grandmother's Motion to Intervene for the purposes of visitation.

14. On February 11, 2005, Husband motioned Judge Myers to reconsider and clarify his Temporary Order, alleging that the award of Thirty Seven Thousand, Five Hundred Dollars (\$37,500.00) was improper, and he refused to pay the award.

15. A Rule to Show Cause was issued by Judge Turbeville against Husband on February 15, 2005. This rule required Husband to show cause why he should not be held in contempt and asked the Court to enforce its temporary order.

16. On February 22, 2005, Husband filed a motion to amend his pleading seeking to have Wade Ingle, the Wife's paramour, made a party to the action, to require Wife to take a pregnancy test, and to require Wife to submit to a hair follicle drug test. Wife filed her response along with a request that the Court appoint an independent appraiser.

17. On March 9, 2005, Judge McFaddin issued another Rule To Show Cause against Husband due to his refusal to comply with the February 8, 2005 Order, including his efforts to auction property in violation of the restraining order.

18. Judge Myers denied Husband's Motion to Reconsider his February 8, 2005 Order, and Husband appealed this ruling to the South Carolina Court of Appeals on March 9, 2005. He still refused to pay Wife the Thirty-Seven Thousand, Five Hundred Dollars (\$37,500.00).

19. After a hearing on March 11, 2005 on the two (2) Rules to Show Cause, The Honorable Jeffrey Young issued an Order finding Husband in civil contempt and sentencing him to serve sixty (60) days. He was allowed to purge himself of the contempt by delivering a cashier's check for Thirty-Seven Thousand, Five Hundred Dollars (\$37,500.00) to Wife. Judge Young stopped the auction and ordered Husband to pay a portion of Wife's attorneys' fees and costs. Additionally, he appointed Burke Watson, Jr. as an independent appraiser to value the land, farm equipment, and the store inventory.

20. After a hearing on March 23, 2005, Judge Myers issued a Bifurcated Decree of Divorce granting Husband a divorce based upon Wife's adultery. The only evidence presented proved Wife's adultery took place subsequent to the separation of the parties.

ist of 2004 and after they had signed the separation agreement that was later set
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21. On April 13, 2005, Husband filed a contempt action, alleging that Wife had
l to pay the taxes and insurance on a 1996 Chevrolet Suburban of which she had the
orary use and possession, and had failed to provide her physical and mental health
ds. At the hearing held on May 6, 2005 Wife denied the material allegations. Judge
g issued an order denying Husband's request for contempt, finding Wife's actions not
willful, finding that Husband had unclean hands and leaving open the issue of the
rban until a final hearing.

22. The Honorable Kinard Johnson issued an Order on April 22, 2005 allowing
and to amend his pleadings to implead Wade Ingle as a party to the action, requiring
to submit a pregnancy test at a doctor of Husband's choice, and denying Husband's
ation to have Wife submit to a drug test. Husband never chose a doctor to give
he pregnancy test.

23. On July 27, 2005, Husband's Motion to Compel and motion for Child
ort were heard by Judge Young. He issued an Order on August 9, 2005 requiring
to release her medical records under a protective order, and to pay Fifty-Seven
s and Seventy-Nine Cents (\$57.79) per week to Husband as child support.

24. During the course of this hearing, Husband testified, presented witnesses
ntroduced eleven (11) Exhibits. Wife also testified, presented her witnesses,
pts from Husband's deposition, and introduced twenty-two (22) Exhibits, including
al memorandum. There were six (6) joint Exhibits that embody the appraisals that

were conducted pursuant to prior Order. Defendant Ingle did not testify and presented no evidence.

ALIMONY

25. Wife is barred from permanent periodic alimony based upon her conduct which took place after the separation. Husband is not entitled to an award of alimony.

CHILD SUPPORT

PLAINTIFF'S INCOME

26. The Court finds that Husband's financial declaration and financial disclosures have not been accurate depictions of his actual income and assets. It has been difficult for the Court to determine Husband's income due to the muddled manner in which Husband and his father commingle their farming income. Husband presented no CPA nor did he provide a reasonable financial declaration until after Wife's case had completed his work.

27. Husband explained that he and his father would pool their crops each year, sell them together, deposit the proceeds into his father's bank account and then divide the proceeds. Husband was unable to articulate how the proceeds were divided between the two of them. He admitted receiving a lower salary or income from his father for years in order to acquire the equity he earned in the Simpson Farms, LLC.

28. Husband's first financial declaration disclosed a gross income of \$17,350.00 per month. The latest financial declaration discloses an income of \$8,350.00 per month.

DEFENDANT'S INCOME

29. The wife has recently become employed in a hair salon and has a monthly income of \$1,386 per month as shown on her financial declaration.

UPPORT OBLIGATIONS

30. I find and conclude that using the incomes of Husband and Wife on their most recent Financial Declarations, Wife's child support obligation is \$221.00 per month for both children. She shall pay this amount through the Court, together with five percent (5%) Court cost, for a total monthly payment of \$233.05.

31. Husband shall be responsible for the cost of health insurance for the minor children.

32. Wife shall be responsible for fifteen percent (15%) of the non-covered medical, dental, orthodontic, psychological, and psychiatric costs incurred on behalf of a minor children that are not covered by health insurance after Husband verifies that insurance has covered the first \$250.00 per year.

33. Wife shall have thirty days (30) to reimburse Husband fifteen percent (15%) of the son's orthodontic bill. Prospectively, Wife shall have thirty days (30) to reimburse Husband for these non-covered costs incurred by the Husband for the benefit of the children after Husband has provided Wife with the bill, and proof of what insurance has covered.

EQUITABLE APPORTIONMENT

34. In South Carolina, equitable apportionment is essentially a three-step process: The Court must identify the marital assets; value the marital assets to be divided; then, apportion the assets according to the statutory factors.

35. S.C. Code Ann. § 20-7-473 (Supp. 2002) defines marital and non-marital property for the purpose of equitable division in this State:

§ 20-7-473. Marital and non-marital property; non-marital property as not subject to judicial apportionment.

The term "marital property" as used in this article means all real and personal property which has been acquired by the parties during the marriage and which is owned as of the date of filing or commencement of marital litigation as provided in § 20-7-472 regardless of how legal title is held, except the following, which constitute non-marital property:

- (1) property acquired by either party by inheritance, devise, bequest, or gift from a party other than the spouse;
- (2) property acquired by either party before the marriage and property acquired after the happening of the earliest of (a) entry of a pendente lite order in a divorce or separate maintenance action; (b) formal signing of a written property or marital settlement agreement; or (c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties;
- (3) property acquired by either party in exchange for property described in items (1) and (2) of this section;
- (4) property excluded by written contract of the parties. "Written contract" includes any antenuptial agreement of the parties which must be considered presumptively fair and equitable so long as it was voluntarily executed with both parties separately represented by counsel and pursuant to the full financial disclosure to each other that is mandated by the rules of the family court as to income, debts, and assets;
- (5) any increase in value in non-marital property, except to the extent that the increase resulted directly or indirectly from efforts of the other spouse during marriage.

Interspousal gifts of property, including gifts of property from one spouse to the other made indirectly by way of a third party, are marital property which is subject to division.

The court does not have jurisdiction or authority to apportion non-marital property. (emphasis added)

36. Mark Hobbs, CPA, was retained by Wife, and was qualified as an expert. Through him, Wife's Exhibits 11 through 19 were introduced into evidence. Mr. Hobbs' testimony and his exhibits were not contradicted by credible evidence.

THE MARITAL ASSETS

SIMPSON FARMS, LLC

37. Husband has asserted that his interest in the Simpson Farms, LLC is a non-marital asset. In one breath, he claimed it was a gift, while in another, he asserted he received his interest in April 2000 based upon his hard work and sweat equity. The Court finds that Simpson Farms, LLC is a marital asset and that Husband was paid less salary for his farming efforts during the marriage because he was earning a fifty percent (50%) interest in this farming asset including the real property. This is clear since the Husband's father was careful to give his other children real property at the same time he gifted the land where the marital residence was built to Husband.

38. The LLC has yet to file an income tax return, and the Court finds that Husband and his father have engaged in creative bookkeeping that has obfuscated their financial picture.

39. The Court finds that the transfer to Husband by his father of a 50% ownership in Simpson Farms, LLC in April 2000 was payment to Husband for his labor during the marriage, that it was acquired during the marriage, and that it is a marital asset. The Court finds the value of Husband's 50% interest in Simpson Farms, LLC is \$299,825.00 as determined by Judge Turbeville's December 31, 2003 Order that

Husband did not appeal. In addition, the Court was presented with no other credible evidence regarding the value of this asset.

FARM EQUIPMENT

38. Five (5) pieces of farm equipment were appraised by Aaron Easters. They were valued at \$26,150.00. Husbands financial declaration filed in August 2004 valued his farm equipment at \$150,000. The expert, Mr. Easter, testified that there was more than ten (10) other pieces of farm equipment on the property but that Husband only told him to appraise those five (5) items. He had also placed the value of his farm equipment at \$150,000 in a financial statement to a lending institution. Husband explained that not all of the property was his personal equipment but that the other farm equipment was owned by his father or The Simpson Farm, LLC.

1996 SUBURBAN

39. There is a 1996 Suburban automobile that neither party wants. Wife has valued this vehicle at \$500.00 and Husband at \$10,000.00. I find and conclude that Husband shall be responsible for selling the vehicle and that the proceeds he receives therefrom should be divided giving the wife her forty percent (40%) share.

40. Wife should be responsible for the cost Husband incurred taking care of the vehicle while it was ordered into her temporary possession. Wife shall be responsible for \$250.00 in taxes and insurance and \$75.00 for towing. Her total cost is \$325.00.

INVENTORY FROM THE BUCK AND BULL STORE

41. John Odom appraised and testified that this inventory is worth \$4,345.00. He testified that the inventory was worth more at the time the Husband attempted to auction the property.

16,000 HUSBAND CLAIMS FROM PAYING WIFE UNDER THE UNFAIR AGREEMENT

42. Husband claims credit for \$16,000.00 he says he paid Wife under the terms of the overturned consent order. The Court finds that the agreement was unconscionable and that Plaintiff would have otherwise been supporting Wife during this period. This Court concludes that the Husband should be given no credit for this.

\$37,500 ADVANCE TO WIFE

43. Judge Myers' Order awarded the wife \$37,500 as an advance on her equitable distribution claim or as attorney's fees. This Court finds that this is an advance of her equitable distribution. Consequently, all the property purchased by wife with these monies including the Kia Sephis vehicle is her separate property.

HIGHWAY 15 PROPERTY

44. This property was appraised by the court-appointed appraiser, Burke Watson. The fair market value of the property is \$50,000 and there is no lien on the property. This property was acquired during the marriage with marital funds.

MUNTER ROAD PROPERTY

45. This property was appraised by the court-appointed appraiser, Burke Watson. The fair market value is \$14,000 and there is no lien on this property. This property was acquired during the marriage with marital funds.

BRADHAM ROAD PROPERTY

46. This property was appraised by the court-appointed appraiser, B Watson. The fair market value is \$14,000 and there is no lien on this property. property was acquired during the marriage with marital funds.

BILLY ROAD PROPERTY

47. This property was appraised by the court-appointed appraiser. The market value is \$95,000 and there is no lien on the property. This property was acquired during the marriage with marital funds.

MARITAL RESIDENCE (145 HERITAGE ROAD)

48. Husband claims the residence is non-marital because his father gifted the land to him. The clear preponderance of the evidence reflects that from the time the Simpson Family moved into the residence and began using that land, they looked upon it and intended for it to be their family home. Funds earned and saved during the marriage, not to mention Wife's labor, efforts, decorating skills and landscaping efforts were used to maintain and increase the value of this property. In fact, they built the home on the property after they were married. The monies used to build the home were therefore marital earnings.

49. "Transmutation is a matter of intent to be gleaned from the facts of each case." *Jenkins vs. Jenkins*, 345 S.C. 88, 98, 545 S.E.2d 531, 536 (Ct. App.2001); *Widman vs. Widman*, 348 S.C. 97, 557 S.E.2d 693 (Ct. App. 2001).

50. The Court finds that Wife proved not only by her testimony, but by photographs of the property taken over the years, that this property was transmuted into marital property.

51. The husband is entitled to 20% more of all the marital property. The fact that this land was gifted to him is one of the reasons he is receiving more of the property than the Wife.

CROPS IN PRODUCTION

52. Wife's expert argued that the crops planted in the field should be estimated and placed in Husband's column as a marital asset. This Court finds that this is too speculative to be considered.

SUMMARY OF MARITAL ASSETS:

53. Based upon the foregoing findings and conclusions, the Court hereby identify the marital assets and their values as follows:

ASSETS:

Cash on hand and in the bank	\$2,435.00
Simpson Farms, LLC	\$299,825.00
145 Heritage Road (the marital residence) (net of mortgage for which husband shall be responsible)	\$61,400.00
Farm equipment	\$26,150.00
Inventory from Buck and Bull Store	\$4,345.00
Highway 15 property	\$50,000.00
Cash on hand and in checking account	\$51.00
Gunter Road property and trailer on that property	\$14,000.00
Bradham Road property	\$14,000.00
Cash paid to Wife during litigation pursuant to Judge Myers Order	\$37,500.00
Billy Road property	\$95,000.00
Cost Husband paid on the Suburban	\$325.00
Huckabee Road property	\$61,000.00
Poole Road property	\$ 111,000.00
TOTAL	\$777,031.00

DEBTS OF THE MARRIAGE:

54. The court has been provide documentation for the following debts of the marriage.

Pee Dee Federal Loan	(\$133,500.00)
Bank of Greeleyville Loans	(\$101,000.00)
Bank of America Credit Card	(\$8,000.00)

PEE DEE FEDERAL LOAN

55. The evidence presented indicates that this is a marital debt. It was borrowed during the marriage.

BANK OF GREELEYVILLE LOANS

56. The evidence presented indicates that this is a marital debt. It was borrowed during the marriage.

BANK OF AMERICA CREDIT CARD

57. The evidence indicates that this is a marital debt. It was borrowed during marriage.

OTHER DEBTS:

58. Husband asserted other significant debt to his father, but offered documentary evidence. Based upon the arbitrary way Husband and his father conducted their business, this Court assumes that much of these debts are a part of their and/or other farming business that they will pay out of the proceeds from the crop production. This court finds the crops in production and the debts acquired to produce them to be too speculative to include in the marital estate.

THE DIVISION OF THE ABOVE MARITAL PROPERTY

57. The statutory facts considered by the Court in making the equitable apportionment pursuant to § 20-7-472 (1) - (15), South Carolina Code of Laws, 1976, as amended, are as follows:

- (1) The duration of the marriage together with the ages of the parties at the time of the marriage and at the time of the divorce or separate maintenance or other marital action between the parties:

This is a fifteen (15) year marriage. The wife was 17 years of age at the time of the marriage and the Husband was 20 years of age. At the separation the Wife was 32 and the Husband was 35.

- (2) Marital misconduct or fault of either or both parties, whether or not used as a basis for a divorce as such, if the misconduct affects or has affected the economic circumstances of the parties, or contributed to the breakup of the marriage; provided, that no evidence of personal conduct which would otherwise be relevant and material for purposes of this subsection shall be considered with regard to this subsection if such conduct shall have taken place subsequent to the happening of the earliest of (a) entry of a pendente lite order in a divorce or separate maintenance action; (b) formal signing of a written property or marital settlement agreement; or (c) entry of a permanent order of separate maintenance and support of a permanent order approving a property or marital settlement agreement between the parties:

There is no evidence of marital misconduct from either party that would rise to the level to effect the division of property. The wife's adultery took place only after the parties' separation and there is no evidence to prove the physical abuse allegations against the Husband.

- (3) The value of the marital property, whether the property be within or without the state. The contribution of each spouse to the acquisition, preservation, depreciation or appreciation in value of the marital property, including the contribution of the spouse as homemaker; provided, that the court shall consider the quality of the contribution as well as its factual existence:

The values of the marital property are set forth above and incorporated by reference. There is no non-marital property to be considered as all property is marital, and the wife's inherited property and the husband's gifted property has been transmuted.

During this marriage, the Husband worked hard in the fields and the Wife worked hard raising the children and taking care of the home and yard. These parties lived a frugal life style while amassing nearly \$800,000 in net assets.

Much of the property accumulated was do to the Husband's family. He was able to acquire a 50% interest in the Simpson Farm, LLC through his sweat equity and his father gifted him the land upon which the marital home was built. This is part of the reason that the Husband received 20% more of the marital estate than did the wife.

(4) The income of each spouse, the earning potential of each spouse, and the opportunity for future acquisition of capital assets:

The Husband has now disclosed a monthly income of \$8,350 per month. The Wife earns \$1,730.76 per month. Husband has the ability to accumulate additional assets whereas that is unlikely for Wife.

(5) The health, both physical and emotional, of each spouse:

Husband and Wife are both healthy. Wife's demeanor reflects she is in good emotional health at this time.

(6) The need of each spouse or either spouse for additional training or education in order to achieve that spouse's income potential:

I have considered that Wife began this proceeding unemployed and is now working in a hair salon. She may seek additional training. Husband has no further need of any additional training to maximize his earning potential.

(7) The non-marital property of each spouse:

There is no non-marital property to be considered.

(8) The existence or nonexistence of vested retirement benefits for each or either spouse:

Neither Husband nor Wife has any known retirement accounts.

(9) Whether separate maintenance or alimony has been awarded:

No periodic alimony has been awarded to Wife or Husband. The Wife is barred from alimony and the Husband is not entitled to alimony.

(10) The desirability of awarding the family home as part of equitable distribution or the right to live therein for reasonable periods to the spouse whose name is on the title:

The Husband is entitled to possession and ownership of the marital residence. Nonetheless, there are enough other assets to provide the Wife with her share of the marital property.

(11) **The tax consequence to each or either party as a result of any particular form of equitable apportionment:**

I find and conclude that based upon in-kind division between spouses, and the manner in which equitable division is determined herein, there was no testimony of any immediate tax consequence to be considered and none have been considered.

(12) **The existence and extent of any support obligations from a prior marriage or for any other reason or reasons, of either party:**

Wife has a child support obligation to Husband as set forth above. Neither party has any prior obligations.

(13) **Liens and any other encumbrances upon the marital property, which themselves must be equitably divided, or upon the separate property of either of the parties, and any other existing debts incurred by the parties or either of them during the course of the marriage:**

In making the equitable apportionment as set forth below, the Court has considered all evidence of three (3) marital liabilities. Husband testified to additional debts he owed his father. However, this Court concludes that these debts are part of the confusing manner in which Husband and his father run their farming business. They pool their crops and place all the gross proceeds into the father's account. It is impossible to determine what bills paid by father are paid out of Husband's income and which are debts since they seem to shift income to Husband when he has a need rather than provide a specific salary or percentage of income to husband.

(14) **Child custody arrangements and obligations at the time of the entry of the Order:**

Husband has custody of the minor children and it appears that this will not change. This was taken into consideration when the court awarded the Husband more of the total marital estate than it awarded to the Wife.

(15) **Such other relevant factors as the trial court shall expressly enumerate in its Order:**

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

The Court incorporates herein the other findings and conclusions set forth throughout this Decree and as set forth hereinafter in making an equitable claim.

60. Based upon the foregoing, I find and conclude that Husband is a well-known farmer in Clarendon County, South Carolina. There is a preference for division in kind, and I find a division in kind to be practical in this case. Since much of the property was acquired only because of the husband's family and for other reasons as indicated above, this court determines that he is entitled to 60% of the assets and the Wife only 40% of the assets. This also takes into consideration that the husband was hard working and creative in the acquisition of property.

60. I find that the marital estate should be apportioned as follows:

Marital property and debts Allocated To Husband (net values:)

Cash on hand and in the bank	\$ 2,435.00
Simpson Farms, LLC	\$ 299,825.00
145 Heritage Road (the marital residence) (net of mortgage for which he shall be responsible)	\$ 61,400.00
Farm equipment	\$ 26,150.00
Inventory from Buck and Bull Store	\$ 4,345.00
Highway 15 property	\$ 50,000.00
Poole Road property	\$ 111,000.00
TOTAL	\$555,155.00
	LESS
Pee Dee Federal Loan	(\$133,500.00)
Bank of Greeleyville Loans	(\$101,000.00)

Total to Husband \$ 320,655.00 (60%)

Husband shall pay any debt to his father without credit.

1. Marital Property and Personal Debts Allocated To Wife:

Cash on hand and in checking account	\$51.00
Gunter Road property and trailer on that property	\$14,000.00
Bradham Road property	\$14,000.00

the borrowing ability to acquire the funds and take care of this debt with little effect on his lifestyle.

64. **BENEFICIAL RESULTS:** In considering the initial agreement the Husband had the Wife sign, the Wife has received beneficial results from the efforts of her attorneys and experts. She may only be receiving 40% of the entire marital estate but this is substantially more than she was to receive before her attorney's became involved.

65. **THE FINANCIAL CONDITIONS OF THE PARTIES:** As discussed above, the Husband's earning ability and borrowing capacity is substantially more than the Wife's. In addition, the Husband was awarded over \$100,000 more than the Wife in the above equitable distribution.

66. **THE EFFECT OF THE FEE ON EACH PARTY'S STANDARD OF LIVING:** Either party required to pay these fees will have to borrow the funds or sale property to cover them. The Husband is the only party with the earning and borrowing capacity to do this.

THE AMOUNT OF ATTORNEY'S FEES TO BE AWARDED

67. At the close of Defendant's case, Defendant presented an affidavit and testimony with regard to attorneys' fees. There was no reply testimony from the Plaintiff, and Defendant's testimony and exhibits in this regard are uncontradicted.

69. **The nature, extent, and difficulty of the case:** This court has considered the fact that Husband attempted to obfuscate the facts of this case. His financial declaration did not paint an accurate picture of the assets nor his income. He did not change his financial declaration as to his income until Defendant's counsel and expert had accomplished their work. In addition, he never provided the Court with a completed

asset addendum until after the Court demand him to do so after the trial. He initially complicated the case by having the Wife sign an unconscionable agreement which he to be subsequently set aside. He further complicated the case by insisting that his interest in the Simpson Farm, LLC was not a marital asset. All of these assertions by Husband caused the Wife's attorney's considerably more work.

70. **The time necessarily devoted to the case:** The Court finds from the testimony and the exhibits, that the time Wife's counsel devoted to this case was reasonable. The Court did not order the Husband to pay all of the Wife's fees and costs because some of the work done in Husband's father's marital litigation could have been utilized in both of the cases. However, Husband caused the hours to run up substantially by filing so many motions, attempting to appeal a temporary order, failing to obey the court orders and because of Husband's and his father's lack of customary accounting methods in their farming business.

71. **Professional standing of counsel:** I find that Wife's attorneys are experienced matrimonial lawyers with long track records of handling difficult cases. This is a difficult case based upon the manner in which Husband and his father conducted their farming operations. Defendant's counsel herein previously represented the Husband's mother. While this should have given them a "leg up" so to speak with regard to how the parties did business, substantial work in this case was still required because of the lack of cooperation by the Husband.

72. **Contingency of compensation:** There is no contingency of compensation in this case.

73. **Beneficial results obtained:** The Court finds that counsel for the Defendant did an excellent job in representing their client. The agreement that the Husband initially had Wife sign gave her virtually nothing. Because of the work done by her counsel and expert she now has an equitable share of the marital property.

74. **Customary legal fees for similar services:** While attorneys in Clarendon County, South Carolina may not charge the rates charged by Defendant's counsel, this Court finds as a matter of fact that due to the complexity of this case, Wife could not have received the results she received without the representation of experienced attorneys. To go one step further, Wife testified that she did not have funds with which to hire an attorney when she signed the initial agreement prepared by Husband's lawyers in July 2004. She did not have funds with which to hire counsel when her attorneys agreed to represent her. She did not have funds with which to hire the Certified Public Accountant, Mr. Hobbs. Seeing that Wife required good representation, her counsel and Mr. Hobbs handled the case without a retainer. The Court finds and concludes that the hourly rates asserted by counsel for the Defendant and the hours were necessary and customary for similar services.

75. The following fees and costs were asserted:

Cost of Private Investigator	
Appraisal for Five (5) tracts of farmland (Burke Watson)	\$5,500.00
Appraisal for Marital Residence	\$350.00
Appraisal for Gunter Road property	\$350.00
Appraisal for Buck and Bull Inventory	\$300.00
Appraisal for Farm Equipment	\$300.00
Cost of Cancelled Auction (H)	\$838.37
Defendant's CPA	\$ 10,000.00
Defense Attorney's fees as set forth below	\$156,079.82

76. The Court finds that Husband should pay the cost of the appraisals for the furniture, Burke Watson, and he shall pay the same along with the appraisals for the farm equipment, Buck and Bull inventory, and the other appraisals within fifteen days (15) of the date of this Order. Those payments total \$7,638.37.

77. The Court further finds Husband should pay fifty percent (50%) of the cost of Wife's Certified Public Accountant (\$5,000.00) and fifty percent (50%) of Wife's attorneys' fees and costs (\$78,039.91) within one hundred and twenty (120) days of the date of this Order. Those payments total \$83,039.91.

THEREFORE, based upon the foregoing findings and conclusions, the Court orders, accordingly

ORDERED:

1. Within thirty (30) days of the date of this Decree, Husband shall transfer to Wife the following assets, free and clear of lien or encumbrances:

Gunter Road property and trailer on that property	\$14,000.00
Bradham Road property	\$14,000.00
Billy Road property	\$95,000.00
Huckabee Road property	\$61,000.00

2. The Husband shall have possession and ownership of all the real and personal properties listed above both real and personal.

3. The Husband shall be responsible for the Pee Dee Federal loan and the Bank of Greeleyville loan. He shall hold the wife harmless from these debts.

4. Wife shall be responsible for Bank of America Credit Card and hold the Husband harmless.

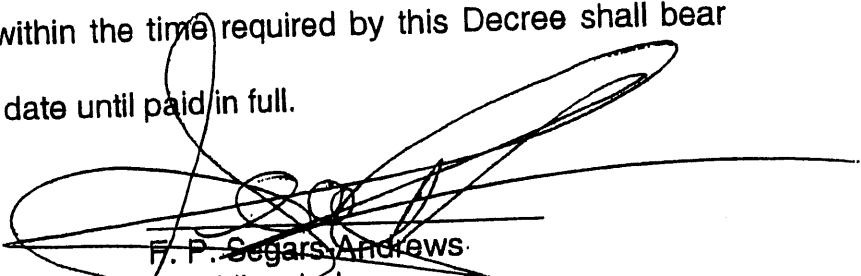
5. Husband should pay the cost of the appraisal to Burke Watson, and

entory, and the other appraisals within fifteen (15) days of the date of this Order, with
d payments totaling \$7,638.37.

6. Husband should pay 50% of the cost of Wife's Certified Public Accountant
5,000.00) and 50% of Wife's attorneys' fees and costs (\$78,039.91) within one
ndred and twenty (120) days of the date of this Order, with said payments totaling
3,039.91.

7. Any payment not paid within the time required by this Decree shall bear
terest at the statutory rate from due date until paid in full.

ND IT IS SO ORDERED



F. P. Segars Andrews
Presiding Judge,
Family Court, Third Judicial Circuit

At Chambers
Charleston, South Carolina

June 2, 2006

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