

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR MONROE COUNTY

DR. ADALBERTO JOSE FERNANDEZ,

Petitioner/Husband,

and

CLARA FERNANDEZ,

Respondent/Wife,

44-2004-DR-1126-K
CASE NO.: ~~44-2004-~~

SUMMONS: PERSONAL SERVICE ON AN INDIVIDUAL
ORDEN DE COMPARECENCIA: SERVICIO PERSONAL EN UN INDIVIDUO
CITATION: L'ASSIGNATION PERSONAL SUR UN INDIVIDUEL

TO/PARA/A: *Clara Fernandez*
525 W Lake Howard Drive
N.W. Winter Haven Florida 33480

REC: 10-27-04 9:00am
SERVICE: Subst. A/C
DATE: 11-8-04 TIME: 12:50PM
TO: William Hart - Co. RES
BY: Buddy Elinor # CA-276

IMPORTANT

A lawsuit has been filed against you. You have **20 calendar days** after this summons is served on you to file a written response to the attached complaint/petition with the clerk of this circuit court, located at: **502 Whitehead Street, Key West, Florida 33040**. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be **filed** if you want the Court to hear your side of the case.

If you do not file your written response on time, you may lose the case, and your wages, money, and property may be taken thereafter without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court, you must also mail or take a copy of your written response to the party serving this summons at:

Law Office of GREGORY D. DAVILA, P.A., 2505 Flagler Avenue, Key West, Florida 33040.

Copies of all court documents in this case, including orders, are available at the Clerk of the Circuit Court's office. You may review these documents, upon request.

You must keep the Clerk of the Circuit Court's office notified of your current address. (You may file Notice of Current Address, Florida Supreme Court Approved Family Law Form 12.915.) Future papers in this lawsuit will be mailed to the address on record at the clerk's office.

WARNING: Rule 12.285, Florida Family Law Rules of Procedure, requires certain automatic disclosure of documents and information. Failure to comply can result in sanctions, including dismissal or striking of pleadings.

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR MONROE COUNTY

IN RE: THE MARRIAGE OF

DR. ADALBERTO JOSE FERNANDEZ,

Petitioner/Husband,

and

CASE NO.: DR-K-04-

CLARA FERNANDEZ,

Respondent/Wife.

HUSBAND' S PETITION FOR DISSOLUTION OF MARRIAGE

COMES NOW, the Petitioner, DR. ADALBERTO JOSE FERNANDEZ, by and through his undersigned attorney and petitions this Honorable Court to dissolve the marriage between the Petitioner and the Respondent, CLARA FERNANDEZ, and alleges the following:

1. This is an action for dissolution of marriage between ADALBERTO JOSE FERNANDEZ, Husband and CLARA FERNANDEZ, Wife.

2. Husband, DR. ADALBERTO JOSE FERNANDEZ, has been a permanent resident of Monroe County in the State of Florida for more than six (6) months preceeding the filing of this Petition. Venue is proper in this circuit because Monroe County is where the intact marriage of these parties was last evidenced by a continuing union.

3. The Wife is not a member of the Military Services of the United States of America as defined by the United States Amended Soldiers' and Sailors' Civil Relief Act of 1940. The Husband is not a member of the Military Services of the United States of America. Both parties are over the age of eighteen (18) years.

4. The parties were married to each other on May 19, 1946 in Camaguey, Cuba.

5. The parties ceased to live together as Husband and Wife on or about August 21, 2004.

6. The marriage between the parties is irretrievably broken.

7. There have been two (2) children born of the parties, to wit: ADALBERTO JOSE FERNANDEZ, born on February 15, 1947 in Cuba and RAUL A. FERNANDEZ, born on July 16, 1954 in Cuba.

8. The Wife is not now pregnant and no further issue is contemplated.

9. Wife is well able to earn money and to permanently contribute to the support of Husband. Husband is without sufficient funds with which to support himself without this assistance, considering the standard of living established during the marriage, as well as the other factors set forth in the applicable Florida Statutes, including the following:

- a. The duration of the marriage;
- b. The age and physical and emotional condition of Husband;
- c. The financial resources of Wife; and
- d. The contribution of Husband.

10. In the alternative and/or in addition to any other alimony requested herein, Husband is in need of alimony to "bridge the gap" between married and single life. Husband is without funds with which to fully support himself without this assistance, and hereby requests such transitional alimony.

11. In the alternative and/or in addition to any other alimony requested herein. Husband is in need of alimony during the pendency of this action. Husband is without funds with which to fully support himself without this assistance, and hereby requests temporary alimony or spousal support until judgment for dissolution is granted herein.

12. In the alternative and/or in addition to any other alimony requested herein, Husband requests the award of lump sum alimony.

13 The parties have accumulated certain property and liabilities during the course of their marriage. There is justification for the court to equitably divide these assets and liabilities between the parties so as to achieve an equitable distribution of the assets and liabilities and to ensure that the support needs of the parties are furthered. The relevant factors in the applicable Florida Statutes pertaining to such an equitable distribution include;

- a. The contribution of Husband to the marriage.
- b. The contribution of Husband to the care and education of the children.
- c. The contribution of Husband for services in the home.
- d. The economic circumstances of the parties.
- e. The duration of the marriage.
- f. The desirability of retaining certain assets intact and free from any claim or interference by Wife.
- g. The contribution of Husband regarding the acquisition, enhancement and production of income, or the improvement of marital assets and/or noncapital assets of the parties.

h. The contribution of Wife regarding the incurring of liabilities.

14. The Wife owns property located in Osceola County, Florida which must be equitably divided.

15. The Wife has interest in property located at 15 West Cypress Terrace, Key West, Monroe County, Florida in which Husband and Wife reside. Husband needs the exclusive use of this home and the contents thereof both now and in the future for himself until the property is sold.

16. During the course of the marriage, the parties have acquired personal properties in regard to which the rights of the parties should be adjudicated by this court.

17. The parties have incurred certain debts during the course of the marriage to which the individual and specific obligations of the parties should be adjudicated by the court.

18. There has accrued during the marriage rights and funds in the form of retirement, pension, profit sharing, annuity, deferred compensation, death benefit, or insurance programs which should be distributed pursuant to applicable Florida Statutes.

19. Husband believes and therefore alleges that Wife might hide, remove or dispose of part or all of her assets and funds to the detriment of Husband if she is not restrained by an Order of this Court. Wife will sustain no damage from entry of an order enjoining disposal or transfer of any assets without consent of Husband or order of court. The great majority of Wife's assets can be easily encumbered, sold, transferred or disposed of. Husband would be irrevocably injured by these acts of Wife and believes the injury will occur if Wife is not restrained and enjoined without notice from disposing, encumbering, withdrawing, selling, transferring or permitting the disposal, encumbrance, withdrawal, sale or transfer of his assets, or transfer of any assets, or making any changes in his life insurance policies, health and other insurance policies, or employment benefits from that which existed at the time prior to the separation of the parties, until further order of this Court.

20. Husband has employed the Law Office of Gregory D. Davila, P.A., to represent him in this action and has agreed to pay a reasonable attorney's fee, cost and suit money for this representation. Husband is financially unable to pay said attorney or the costs of this action, but Wife is well able to do so.

WHEREFORE, the Petitioner/Husband, ADALBERTO JOSE FERNANDEZ, respectfully prays that this Court grant the following relief and enter an Order:

- a. Dissolving the marriage between the parties.
- b. Award Husband temporary, permanent, rehabilitative, "bridge-the-gap" and lump sum alimony.
- c. Grant an equitable distribution of the assets and liabilities that each of the parties acquired during or as a result of this marriage, making use of all appropriate remedies, including, but not limited to, special equity, giving due regard to the applicable factors set forth in Florida Statutes.
- d. Adjudicate the rights of the parties in regard to their jointly owned real and/or personal property and debts, including such marital and non-marital rights and obligations as may exist. And, pending such adjudication, restrain Wife from transferring, concealing, removing, dissipating, encumbering, destroying, selling, or in any other way disposing of such assets without written agreement of Husband or order of court.
- e. Order Wife to maintain all home related payments traditionally paid by her, during pendency of this action and until the property is sold, whichever comes sooner.
- f. Adjudicate the rights of each party to the pension, retirement and other employment benefits accumulated by the parties.

- g. Equitably distribute any debts incurred by the parties prior to the dissolution of marriage.
- h. Require Wife to contribute to Husband's attorney's fees and related legal expenses and costs.
- i. Approve, ratify and confirm as a part of any Final Judgment of Dissolution of Marriage entered herein by this Court any agreements or stipulations entered into between the parties hereto.
- j. Adjudicate any and all matters which the Court deems just and equitable in the premises.

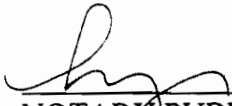


DR. ADALBERTO JOSE FERNANDEZ
Petitioner/Husband

STATE OF FLORIDA }
COUNTY OF MONROE }

Before me, the undersigned authority, personally appeared DR. ADALBERTO JOSE FERNANDEZ, after being first duly sworn, deposes that he is the Petitioner in the above entitled Husband's Petition for Dissolution of Marriage, that he has read the foregoing Petition and that all statements herein are true and correct to the best of his knowledge and belief.

The foregoing instrument was acknowledged before me this 18th day of October, 2004, by DR. ADALBERTO JOSE FERNANDEZ, who produced US Passport # 045099204 as identification.



NOTARY PUBLIC-STATE OF FLORIDA
Heidi E. Davila
CC#954234
My Commission Expires November 11, 2004



Respectfully submitted,

LAW OFFICES OF GREGORY D. DAVILA, P.A.
2505 Flagler Avenue
Key West, FL 33040
(305) 293-8554

BY: 

GREGORY D. DAVILA
Attorney for Petitioner
Florida Bar No. 0886998