

COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE

JOHN W. NOBLE  
VICE CHANCELLOR

417 SOUTH STATE STREET  
DOVER, DELAWARE 19901  
TELEPHONE: (302) 739-4397  
FACSIMILE: (302) 739-6179

June 6, 2012

Glynis Gibson, Esquire  
Glynis Gibson, P.A.  
34 The Green, Suite G  
Dover, DE 19901

Alexander W. Funk, Esquire  
Curley & Rodriguez, LLC  
250 Beiser Boulevard, Suite 202  
Dover, DE 19904

Re: *Posley v. Posley*  
C.A. No. 6803-VCN  
Date Submitted: April 4, 2012

Dear Counsel:

Petitioner Jacqueline T. Posley (“Jacqueline”) brought this action against Respondent Casper J. Posley (“Casper”)<sup>1</sup> for matters generally arising out of their “married” life together since 1989. She seeks, *inter alia*, a constructive trust over the assets that Casper has acquired since 1989 and a declaration of the validity of their marriage to allow Family Court to divide their assets and to allow her to seek military benefits, Social Security benefits, and other entitlements to which she may be entitled through Casper.

---

<sup>1</sup> First names are used for convenience only.

Jacqueline and Casper went through a marriage ceremony in New Jersey on December 6, 1989. Although neither of them knew, Casper's divorce from his previous spouse was not yet final then; that, of course, calls into question the validity of their marriage.<sup>2</sup>

Casper has moved to dismiss this action under Court of Chancery Rule 12(b)(1), lack of subject matter jurisdiction. The Family Court generally provides married couples with an adequate remedy at law, even though a substantial portion of its relief may be considered equitable in nature. That court's ability to provide an adequate remedy at law typically deprives this Court of subject matter jurisdiction over matters within the Family Court's jurisdiction.

Jacqueline argues that an invalid marriage—which theirs may be because Casper's divorce was not final at the time of their marriage ceremony—precludes the Family Court from exercising jurisdiction over the various disputes. If so, she argues, it follows that she lacks an adequate remedy at law and, therefore, this Court would have jurisdiction.

---

<sup>2</sup> Jacqueline brought an action in New Jersey seeking to validate the marriage; that action was dismissed for lack of subject matter and personal jurisdiction. *See* Respondent's Mot. to Dismiss for Lack of Subject Matter Jurisdiction, Ex. C.

Casper has filed in Family Court for an annulment and other relief.<sup>3</sup> Jacqueline has also joined issue there and asks the Family Court to exercise jurisdiction “for the purpose of equitably dividing, distributing, and assigning the marital property,”<sup>4</sup> relief that parallels the relief which she seeks here.

If Family Court concludes that it has jurisdiction over the matters which Casper and Jacqueline have raised there, it makes little sense for those issues to be litigated in this venue as well. Indeed, if the Family Court does have jurisdiction, it would seem that it would be providing an adequate remedy at law and, thus, deprive this Court of any subject matter jurisdiction. Similarly, it makes little sense for this Court and for the Family Court both to address the question of jurisdiction.

Thus, the Court will defer to the Family Court to resolve, at least initially, the jurisdictional question. That results in a stay of this action in favor of the pending Family Court action.

---

<sup>3</sup> *Id.* Ex. D.

<sup>4</sup> *Id.* Ex. E.

*Posley v. Posley*  
C.A. No. 6803-VCN  
June 6, 2012  
Page 4

Counsel are requested to provide a report on the status of the related proceedings in the Family Court within sixty days of the date of this letter.

**IT IS SO ORDERED.**

Very truly yours,

*/s/ John W. Noble*

JWN/cap  
cc: Register in Chancery-K