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2 FOR PUBLICATION
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6 **IN THE SUPERIOR COURT**
7 **FOR THE**
8 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

8 ELLIOT A. SATTLER,) **CIVIL CASE NO. 02-0412**
9)
9 Plaintiff,) **ORDER GRANTING PLAINTIFF'S**
10) **ABSOLUTE DIVORCE**
10 v.)
11)
11 PAMELA A. MATHIS-SATTLER,)
12)
12 Defendant.)
13)
14)
_____)

15 In this divorce action, Plaintiff Elliot A. Sattler (“Elliot”) seeks a divorce from Defendant
16 Pamela Mathis Sattler (“Pamela”) pursuant to 8 CMC § 1331(b). For the following reasons,
17 Plaintiff’s Complaint for Divorce is **GRANTED**.

18 **FACTUAL BACKGROUND**

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20 Based on the testimony of the parties and the witnesses, the evidence introduced, and after
21 considering the written arguments of the parties, the Court makes the following findings of fact:

- 22 1. Elliot A. Sattler and Pamela A. Mathis were married on August 1, 1990, in Las Vegas,
23 Nevada.
24 2. The parties moved to Saipan in November 1990.
25 3. The couple began having marital problems shortly after arriving in Saipan. The problems
26 were continual in nature and caused Elliot to be miserable. The marital problems involved
27 Pamela berating him for not earning enough money and criticizing him in other respects,
28 including sexual and job performance. Elliot also claimed that Pamela spent too much

- 1 money.
- 2 4. Elliot became depressed early on in the marriage and sought professional aid that included
- 3 psychiatrists, psychologists and physicians. He went to marriage counseling at least 150
- 4 times. Pamela refused to accompany Elliot to counseling sessions until the year 2000.
- 5 From late 1990 to April 2002, Elliot had taken antidepressant medications. He is not taking
- 6 those medications now. During the above-referenced time frame, he had a stress related
- 7 heart condition.
- 8
- 9 5. Pamela gave up her career in Las Vegas to move with Elliot to Reno and then Saipan.
- 10 Pamela was unaware that Elliot was receiving marriage counseling and maintains that the
- 11 root cause of his depression was his not receiving a judgeship in the state of Nevada. Pamela
- 12 never had the impression that she was the cause of Elliot's depression. She disputes that her
- 13 spending habits have put the couple under financial stress.
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- 15 6. Witnesses who had social relationships with the couple testified that there were no overt
- 16 signs that Elliot and Pamela were having marital difficulties.

17 **DISCUSSION**

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19 There are several states that are "no fault" jurisdictions when it comes to grounds for

20 divorce. In those states, one party alleges that there are "irreconcilable differences" or that the

21 marriage is "irretrievably broken" and the courts will grant a divorce. The reasons for the

22 irreconcilable differences or the broken marriage are irrelevant. These modern day jurisdictions take

23 the enlightened position that it is not the state's duty, through its judges, to listen to the intricate

24 details of a downfall of a marriage, as related by the parties, and decide who is at fault. These

25 jurisdictions believe that if one party to a marriage genuinely believes the marriage is over, it is not

26 the court's business to tell him/her that somehow that party has not proven it by an applicable

27 burden of proof.

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1 However, the CNMI is not one of these modern jurisdictions and its law provides that there
2 must be grounds for divorce.¹ Elliot asks that the Court find that he has grounds for divorce
3 pursuant to 8 CMC § 1331(b) which provides as one of nine possible grounds for divorce: “[t]he
4 guilt of either party toward the other of such cruel treatment, neglect or personal indignities, whether
5 or not amounting to physical cruelty, as to render the life of the other burdensome and intolerable
6 and their further living together unsupportable.” Pamela contends that Elliot has not proven grounds
7 for divorce in that he did not sustain his burden of proof.

9 In most of the divorce cases in the CNMI, when Section 1331(b) is used as grounds for
10 divorce, there has been little or no inquiry as to the facts constituting such ground by either the
11 plaintiff, the defendant or the court. Parties have testified that their spouses have been “cruel” or
12 have mentally treated them cruelly and these statements have been accepted as fact. The reason for
13 this practice is relatively simple: both parties desire to have the marriage ended. For the last fifteen
14 years, 8 CMC § 1331(b) has been the catch-all ground for divorce found in this jurisdiction.
15 Because of this, there is very little case law in the CNMI about the nature of proof required when
16 one of the parties contests a divorce brought pursuant to 8 CMC §1331(b).

18 An examination of decisions in jurisdictions requiring “grounds” for divorce, reveals a
19 monumental judicial problem that probably explains why no-fault laws were so rapidly accepted in
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21 ¹ The nine grounds for divorce in the CNMI found in 8 CMC § 1331 are as follows:

- 22 (a) Adultery.
23 (b) See discussion infra.
24 (c) Willful desertion continued for a period of not less than one year.
25 (d) Habitual intemperance in the use of intoxicating liquor or drugs continued for a period of not less
26 than one year.
27 (e) The sentencing of either party to imprisonment for life or for three years or more. After divorce
28 for
 this cause, no pardon granted to the sentenced party shall affect the divorce.
 (f) The insanity of either party where the same has existed for three years or more.
 (g) The contracting by either party of leprosy
 (h) The separation of the parties for two consecutive years without cohabitation, whether or not by
 mutual consent.
 (i) Willful neglect by the husband to provide suitable support for his wife when able to do so or when
 failure to do is because of his idleness, profligacy or dissipation.

The Court notes here, that there has yet to be divorce proceeding brought on by the contracting of leprosy by either party.

1 a plurality of states. The problem is that courts are asked to make objective determinations about
2 the subjective emotions and feelings of the parties after hearing “factual” allegations and counter-
3 allegations from the parties themselves. This task is extremely difficult and it is relatively
4 impossible to ascertain the complete truth, since each party most likely believes their version of the
5 facts is the truth.
6

7 **A. CRUEL TREATMENT**

8 Elliot alleges that Pamela has been cruel to him. Being cruel is to cause suffering to
9 someone else. Elliot says that he has been suffering. Pamela says he has not. Elliot says that he has
10 suffered personal indignities that have made his life burdensome and intolerable. An indignity is
11 an offense to a person, such as to his pride or sense of dignity. Pamela says she has not inflicted this
12 kind of treatment to Elliot. How is the Court to decide on a burden of proof to determine this kind
13 of “question of fact,” especially when the word, “personal” is used before indignity in the statute?
14 Can an offensive remark be an indignity to one person and a compliment to another?
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16 Pamela presents the Court with some cases which set out a definition of “cruel treatment.”
17 *In re Marriage of Rice*, sets forth facts which show that the “husband repeatedly slapped, choked
18 and spit on the wife on multiple occasions.” Def.’s Post-Trial Mem. at p. 10 (*citing In re Marriage*
19 *Rice*, 96 S.W.3d 642 (Tex. Ct. App. 2003)). In the *Hilburn* case, the Georgia Supreme Court defines
20 cruel treatment as the “wilful infliction of pain, bodily or mental, upon the complaining party, such
21 as reasonably justifies an apprehension of danger to life, limb, or health.” *Id.* at p. 11 (*citing Hilburn*
22 *v. Hilburn*, 81 S.E. 2d 1, 5 (Ga. 1954)). Finally, Pamela presents the case of *Beardin* which finds
23 extreme cruelty in the “husband who has struck his sickly wife with such extreme force and
24 manhandled her causing extreme bruising about her arms.” *Id.* at p. 11 (*citing Beardin v. Beardin*,
25 38 Haw. 114 (Haw. 1948)). Pamela contends that no evidence has been presented which shows that
26 her conduct has risen to the level defined in the cases she lays out.
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1 This Court relies on the body of case law which is committed to the rule that in deciding
2 allegations of cruelty and personal indignities, the court must apply a subjective rather than an
3 objective test and consider the effect of conduct and words upon the aggrieved party. *Detjen v.*
4 *Detjen*, 244 P.2d 238 (Wash. 1952); *Baselt v. Baslet*, 244 P.2d 631 (Wash. 1950); *Thompson v.*
5 *Thompson*, 132 P.2d 734 (Wash. 1943). It is well settled that there can be cruel and inhuman
6 treatment without physical violence. What constitutes cruel and inhuman treatment must be
7 determined by the facts of the given case. As was said in the case of *Kelly v. Kelly*:

9 In considering extreme cruelty as a ground of divorce, courts have cautiously
10 given it negative, rather than affirmative, definitions. The difficulty in giving it an
11 affirmative definition arises from the fact that cruelty is a relative term; its existence
12 frequently depends upon the character and refinement of the parties, and the
conclusion to be reached in each case must depend upon its own particular facts.

13 *Kelly v. Kelly*, 1 P. 194, 195 (Nev. 1883). “We do not divorce savages and barbarians because they
14 act as such to each other,” said the Supreme Court of Pennsylvania, in *Richards v. Richards*. “We
15 can exercise no sound judgment in [divorce] cases without studying the acts complained of in
16 connection with the character of the parties, and for this we want [] common sense . . . rather than
17 fixed legal rules.” *Richards v. Richards*, 37 Pa. 225, 228 (1860)

18 In *Massey v Massey*, the Indiana Appellate Court noted that:

19 if it be true that we are possessed of social, moral, and intellectual natures, with
20 wants to be supplied, with susceptibilities of pain and pleasure; if they can be
21 wounded and healed, as well as the physical part, with accompanying suffering and
22 delight, then, we think, that conduct which produces perpetual social sorrow,
23 although physical food be not withheld, may well be classed as cruel, and entitle the
sufferer to relief.

24 *Massey v. Massey*, 80 N.E. 977, 977 (Ind. Ct. App. 1907) (*quoting Rice v. Rice*, 6 Ind. 81, 85
25 (1859)).

26 There is no doubt that something traumatic forced Elliot to take antidepressants for more
27 than eleven years. Something made him seek counseling and continue with it for many years and
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1 many sessions and that something, based on his testimony, was his relationship with his wife.
2 Pamela believes the events depicted by Elliot were a long-term set up to establish divorce grounds,
3 but offers nothing to prove this except her own conclusion. Indeed, it is hard to believe that Pamela
4 could not notice that her husband was in a drug induced state as long as he was.
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6 In order to determine whether or not Elliot has sustained his burden of proof, the Court must
7 look to the allegations made by the parties and apply a huge dose of common sense to determine
8 subjectively whether the burden has been met.

9 The dividing line in many cases between the mere unhappiness of incompatibility on
10 the one hand, and mental cruelty on the other, is not in the actual conduct, or
11 language of one, but in its effect on the health and happiness of the other. The former
does not support a divorce, the latter does.

12 *Robuck v. Robuck*, 385 P.2d 50, 52 (Wash. 1963). In this case, Elliot meets his burden in supporting
13 a ground for divorce.

14 **B. CORROBORATION**

15 Pamela contends that Elliot's testimony should be discounted because it lacks corroboration,
16 whereas her testimony must be given greater weight because it is supported by several of the
17 couple's social friends. Statutory law in the CNMI is silent on whether or not corroboration is
18 needed for proving up divorce grounds. Nevertheless, the Court will address the issue.
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20 It appears to Pamela that in order for Elliot to sustain his burden of proof, daily
21 documentation and the testimony of a chain of doctors and psychologists is necessary. It is not.
22 Elliot's testimony is credible. Furthermore, medical documentation of his heart ailment was
23 provided. The testimony offered by Pamela's four corroborating witnesses "indicated that they had
24 never seen Pamela act rudely or with any lack of respect toward Elliot on any occasion." Def.'s Post-
25 Trial Mem. at p. 7. Although the Court finds the testimony to be credible, the testimony of the
26 social friends must be considered lightly. The very nature of an occasional dinner or other social
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1 gathering usually brings out the best in people. Even couples who have had a serious argument
2 before a party, usually put on their best “face” when guests arrive. It does not strike the Court the
3 least bit unusual that a sophisticated couple like the Sattlers were able to fool their friends for a long
4 time that nothing was wrong between them.
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6 **C. THE DATE OF SEPARATION**

7 The next issue both parties urge the Court to decide is the date of separation between Elliot
8 and Pamela. Elliot maintains that the parties became separated in September 2001, when he moved
9 to Tinian. Pamela thought they were still married and has memories of being together at the Tinian
10 place of residence after September 2001. It certainly appears that by the end of February 2002, there
11 was no doubt in either party’s mind that they were separated. The Court finds, however, that the
12 date of separation is irrelevant for the purposes of determining the grounds for divorce and is more
13 properly an issue to be dealt with in regards to the division of the couple’s property. Accordingly,
14 the Court declines to determine the date of separation at this time.
15

16 **CONCLUSION**

17 The court finds that Elliot has established by clear and convincing evidence that he has
18 suffered personal indignities by Pamela so as to make the continuation of this marriage burdensome
19 and intolerable and their future living together unsupportable; this being a ground for divorce under
20 8 CMC § 1331(b).
21

22 Accordingly, it is **ORDERED, ADJUDGED AND DECREED:**

- 23 1. Plaintiff Elliot A. Sattler is hereby granted an absolute divorce from Defendant,
24 Pamela Mathis Sattler, and the bonds of matrimony heretofore existing between the
25 parties are hereby dissolved, and the parties are restored to the status of single
26 persons.
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- 28 2. Matters concerning support and division of property will be decided at further

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hearings.

3. Both parties are to bear their own attorney fees and costs for this proceeding.

IT IS SO ORDERED.

ENTERED this 5th day of November 2003.

/s/
KENNETH L. GOVENDO, Associate Judge