

**COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE**

J. TRAVIS LASTER  
VICE CHANCELLOR

New Castle County Courthouse  
500 N. King Street, Suite 11400  
Wilmington, Delaware 19801-3734

December 15, 2009

Michael F. McGroerty, Esquire  
Law Office of Michael F. McGroerty  
110 Pine St.  
Seaford, DE 19973

David J. Weidman, Esquire  
Hudson Jones Jaywork & Fisher  
100 N. Bedford St.  
Georgetown, DE 19947

RE: *Sibert v. Pettyjohn, et al.*  
C.A. No. 1534-VCL

Dear Counsel:

I have reviewed the Status Report in the above-captioned matter. In the Status Report, the plaintiff, Debora Sibert, and one of the defendants, Deborah Pettyjohn, jointly requested that I stay the partition action pending the Family Court's resolution of the divorce proceeding between Thomas and Deborah Pettyjohn. I grant the stay.

This Court has inherent authority to stay litigation in the exercise of its discretion. *Paolino v. Mace Sec. Int'l, Inc.*, C.A. No. 4462, at 10 (Del. Ch. Dec. 8, 2009). I do not perceive a need to address partition while the divorce proceeding is pending and unresolved. It would be inefficient and wasteful for the parties to litigate and for me to consider the partition of certain real property prior to a determination of who actually has what interest in the property. Partition could be rendered unnecessary, or the equities affected significantly. *See Real Estate of Warren v. Warren*, 1999 WL 183357, at \*4 (Del. Ch. Mar. 17, 1999) ("While the right to partition of real estate is purely statutory, the fact that the General Assembly has placed jurisdiction of such matters in the Court of Chancery means that equitable principles may be invoked.").

An old but instructive precedent, *In re Cochran's Estate*, 85 A. 1070 (Del. Ch. 1913), further supports my ruling. In that case, Chancellor Curtis declined a request to stay a partition action pending the outcome of a will contest. The children of John Cochran sought to intervene in and stay the partition proceeding, arguing that the will contest would show they owned an interest in the land to be partitioned. The Chancellor declined to stay the matter and ruled that the children had no interest in the property. Critically, he justified his course of action on his finding that "[a] legal question based on undisputed facts has been properly raised in a tribunal competent to decide it, and it is not

December 15, 2009

Page 2 of 2

ignoring or trespassing on the functions and powers of other courts for this court to decide the question.” *Id.*

This case presents precisely the opposite situation. The General Assembly has vested exclusive jurisdiction over dividing the Pettyjohns’ property in their divorce in the Family Court. 10 *Del. C.* § 921(14). Unlike in *Cochran*, I would be “ignoring or trespassing on the functions and powers” of the Family Court were I to adjudicate the Pettyjohns’ rights.

From a practical perspective, the stay will not impose any harm on the parties. The parties have proceeded at a snail’s pace.

I therefore stay this action pending the final disposition of the Pettyjohns’ divorce proceeding in Family Court. IT IS SO ORDERED.

Very truly yours,

*/s/ J. Travis Laster*

J. Travis Laster  
Vice Chancellor