

## 'Til death do they part, The Desbonnets' marriage became a house divided, but not a house sold, because she halted the divorce; [NASSAU AND SUFFOLK Edition]

JOIE TYRRELL. STAFF WRITER. *Newsday*. (Combined editions). Long Island, N.Y.: Apr 22, 2005. pg. A.03

### Abstract (Document Summary)

Her husband declined to comment, but his attorney, Dorothy A. Courten, of Hauppauge, said State Supreme Court Justice Joseph Pastorella erred in setting aside the jury's verdict. New York has fault divorce, meaning certain grounds have to be met to grant a divorce. In this case, [Eric Desbonnet], who sued for divorce in 2002, cited cruel and inhuman treatment.

"Quite frankly, it was an 11-year marriage, a long-term marriage, and the degree of proof has to be high," [Sari Friedman] said. "The judge said that there was no fair interpretation of the evidence that can support a finding of cruel and inhuman treatment. ... The point is he doesn't have grounds for divorce. It is the granting of a divorce that empowers the court to equitably distribute marital property. If there is no granting of a divorce, the court has no power to distribute property."

### Full Text (674 words)

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If Mary Desbonnet has to stay married for the rest of her life to the husband who sought to divorce her, then so be it.

A judge recently set aside a jury verdict that granted Eric Desbonnet, 50, a divorce from his wife of 11 years, so the couple will stay married. Her husband plans to file an appeal, his attorney said.

Mary Desbonnet, 51, of Center Moriches, said one of the reasons she didn't want a divorce was that it would have meant selling her home and splitting the proceeds. She didn't want to do that. "At least the law was in my favor for the divorce and I can't have him take the roof from my head," she said this week. "I can't do it, and if it means I have to stay married to him the rest of my life, I have to stay married to him the rest of my life."

Her husband declined to comment, but his attorney, Dorothy A. Courten, of Hauppauge, said State Supreme Court Justice Joseph Pastorella erred in setting aside the jury's verdict. New York has fault divorce, meaning certain grounds have to be met to grant a divorce. In this case, Eric Desbonnet, who sued for divorce in 2002, cited cruel and inhuman treatment.

"He feels we proved without a doubt, with a preponderance of the credible evidence, that the wife had behaved in such a manner that rendered it unsafe and improper to continue cohabiting as man and wife," Courten said. "He established a pattern of conduct on the part of the wife over a course of time which constituted the cruel and inhuman treatment. The jury found for us and the judge should not have set aside the jury verdict."

In his ruling issued on April 11, Pastorella said that although the husband testified that Mary Desbonnet refused gifts from him and would not go on a planned vacation after an argument, the evidence didn't meet the legal standard. "The proof failed to establish ... the requisite serious or substantial misconduct" by Mary Desbonnet that would have endangered her husband's "physical or mental well-being as to render it unsafe or improper" for him to continue living with her, according to the judge's ruling.

Sari Friedman, the Garden City attorney who represented Mary Desbonnet, said the jury did not properly apply the law. After the husband sued for divorce, the wife had sought a jury trial. Such trials are not unusual.

"Quite frankly, it was an 11-year marriage, a long-term marriage, and the degree of proof has to be high," Friedman said. "The judge said that there was no fair interpretation of the evidence that can support a finding of cruel and inhuman treatment. ... The point is he doesn't have grounds for divorce. It is the granting of a divorce that empowers the court to equitably distribute marital property. If there is no granting of a divorce, the court has no power to distribute property."

But the husband's attorney said the wife had requested a jury trial, and didn't want to be bound by their decision. She

then asked the judge to set aside the verdict. "It's only in very unusual circumstances that a judge should disturb the sanctity of the jury verdict and those circumstances were not present in this case," Courten said.

Eric Desbonnet was disappointed by the decision. "He is extremely upset and feels betrayed by the system," Courten said. "He very much wants to move on with his life."

Meanwhile, Mary Desbonnet said she was happy she wouldn't have to sell her home, where she still lives. Her husband has moved out. "I was so mentally relieved that I was no longer under this man's thumb who said 'I'm going to get a divorce,'" she said. "He didn't have grounds for divorce. The law went in my favor and it was a moral victory."

### **[Illustration]**

Caption: Newsday photo/David L. Pokress - Mary Desbonnet of Center Moriches contested the jury's divorce verdict - and the trial judge

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People: Desbonnet, Mary, Desbonnet, Eric, Courten, Dorothy A

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