

**MODIFIED/ 3/31/2015**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

JENNIFER L. JOYNER,

Appellant

v.

CHRISTOPHER E. JOYNER.

Respondent

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DOCKET NUMBER WD77575

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: March 3, 2015

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Appeal From:

Circuit Court of Cole County, MO  
The Honorable Patricia S. Joyce, Judge

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Appellate Judges:

Division Three  
Victor C. Howard, P.J., James Edward Welsh, and Gary D. Witt, JJ.

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Attorneys:

Randall Barnes, Jefferson City, MO

Counsel for Appellant

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Attorneys:

Mary Browning, Jefferson City, MO

Counsel for Respondent

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**MODIFIED 3/31/2015**

**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JENNIFER L. JOYNER, Appellant, v.  
CHRISTOPHER E. JOYNER, Respondent**

**WD77575**

**Cole County**

**Before Division Three Judges: Howard, P.J., Welsh, and Witt, JJ.**

Jennifer Joyner (Wife) appeals the circuit court's judgment dissolving her marriage to Christopher Joyner (Husband). She contests the circuit court's division of marital property and award of maintenance. The marital property included the marital home and Husband's pension benefit from the Missouri Local Government Employees Retirement Benefits ("LAGERS"). The circuit court adopted Husband's proposed valuation of the marital home and awarded it and its mortgage to Husband. The court awarded a portion of the LAGERS pension benefits to Wife "to be received by [Wife] when and if [Husband] draws retirement from the LAGERS account." It did not enter a Qualified Domestic Relations Order. The court ordered Husband to pay Wife non-modifiable maintenance for a period of thirty-six months.

**Reversed and remanded.**

**Division Three holds:**

The circuit court's contingent deferred allocation of a portion of the LAGERS pension benefit fails to satisfy its statutory obligation to equitably divide all of the marital property and debts in a manner that is definite and capable of enforcement. The circuit court also erred in refusing to allow evidence regarding Husband's misconduct on the basis that the issue was not included in the pleadings. The court did not err in accepting Husband's valuation of the marital home. However, because we are remanding for the circuit court to recalculate the overall division of property and maintenance, the court may wish to receive evidence on remand as to the current value of all the marital property, including the residence and the LAGERS pension.

The circuit court's court allocation of the LAGERS pension benefit is reversed, as is the circuit court's ruling refusing to allow evidence of unpleaded misconduct. The cause is remanded with instructions for the circuit court to reallocate the overall division of property and maintenance after setting aside the pension to Husband and for the court to allow evidence of Husband's misconduct during the marriage. Wife's remaining claims necessarily will be resolved on remand.

Opinion by James Edward Welsh, Judge

March 3, 2015

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