

Tuesday 31st

December, 1996.

Joseph R. Theismann,
Appellant,

against Record No. 1092-95-4
Circuit Court No. CH-15601

Jeanne C. Theismann,
Appellee.

Upon Rehearing En Banc

Before Chief Judge Moon, Judges Baker, Benton, Coleman,
Willis, Elder, Bray, Fitzpatrick, Annunziata and Overton

Michael A.
Ward (Gannon, Cottrell & Ward, P.C., on
briefs), for appellant.

Brian D. West (Mark A. Barondess; Erika B.
Schiller; Sandground, Barondess, West & New,
P.C., on brief), for appellee.

By opinion dated June 18, 1996, a majority of a panel of
this Court affirmed the decision of the trial court. Theismann v.
Theismann, 22 Va. App. 557, 471 S.E.2d 809 (1996). Upon motion of
Joseph R. Theismann, we granted a rehearing en banc. Upon such
rehearing, the judgment of the trial court is affirmed for those
reasons set forth in the panel's majority opinion, and, accordingly,
the stay of this Court's June 18, 1996 mandate is lifted.

Judges Benton, Coleman, Elder and Annunziata would reverse
the judgment of the trial court for those reasons set forth in the
panel's dissenting opinion. See id. at 574, 471 S.E.2d at 817
(Annunziata, J., concurring in part, and dissenting in part).

This order shall be published and certified to the trial court.

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By:

Deputy Clerk