

STANDING PENDENTE LITE ORDER

(Minor Children Involved)

The following *pendente lite* order applies to all contested divorce cases assigned to the undersigned Circuit Judge in which minor children are involved, and shall be binding on both parties during the pendency of the action, pending further orders of the Court. **FAILURE TO ABIDE BY THESE PROVISIONS WILL SUBJECT THE DEFAULTING PARTY TO PENALTIES FOR CONTEMPT OF COURT.** Accordingly, with reference to the case noted above, it is **ORDERED** as follows:

1. **Injunction Against Harassment:** Both parties are restrained from contacting or going about one another at their respective residences or places of employment, or elsewhere, for the purpose of harassing, threatening, intimidating, or assaulting the other, directly or indirectly, in person or by means of telephone, computer, mail or otherwise.

2. **Minimization of Emotional Trauma on Child(ren):** Neither party shall do or say anything to any minor child of the parties, or in a child's presence or hearing, to poison the child's mind, or to adversely influence a child about the other party, or about any issue presented in this action.

3. **Occupancy of Marital Residence:** This Court strongly prefers that children be allowed to continue to reside in the parties' marital/family residence during the pendency of this action, in the custody of the parent who traditionally has provided the child's principal care and control prior to the initiation of this action for divorce. The Court's intent is for the child's life to be disrupted as little as possible, and for stability to be maintained in a child's life as much as possible.

4. **Payment of Child Support:** The parties shall *immediately* compute and begin to pay child support in accordance with Rule 32 of the *Alabama Rules of Judicial Administration*, and continue to do so pending a final hearing or further orders of the Court.

5. **Payment of Child(ren)'s Medical Expenses:** During the pendency of this action any medical expenses incurred by or for a child shall be paid by the parties in equal amounts within 10 days of presentment of the bill. The parties shall cooperate fully in obtaining maximum insurance benefits as may be available. Any reimbursement obtained from an insurance carrier shall then be divided equally by the parties, or in the same percentage as paid, within 10 days of receipt.

6. **Visitation:** Pending a final hearing, the parent who resides with the child(ren) shall allow the other parent to visit, and be with the child(ren) in accordance with the following *minimum*¹ schedule²:

a. Weekends: 1st and 3rd weekend and every other 5th weekend of each month from 6:00 P.M. on Friday until the following Sunday at 6:00 P.M. The first Friday of a new month is deemed by this Court to be the "first weekend" of that month.

b. Weekdays: Every Wednesday of each week from 3:00 P.M. until 8:00 A.M. the next morning, when the visiting parent shall take the child(ren) to school, or day care, or return to the other parent, as the case may be.

c. Spring Vacation: (AEA Week): From 8:00 A.M. on the first Saturday following the last day of school (in the district which the child attends) until 6:00 P.M. on Sunday at the end of the Spring Vacation in even-numbered years, regardless of whether such conflicts with other provisions.

¹The Court firmly believes that the parent who does not reside with the child(ren) should have, and exercise, liberal visitation rights. I consider this schedule to be a *minimum*, neither parent should think of it as setting forth *maximum* visitation rights. Both parents are encouraged to cooperate with each other in expanding this schedule to fit the child(ren)'s needs.

²In the event the parent who does not reside with the child(ren) lives more than 100 miles from Limestone County, Alabama, the Court's standard "Out of State Visitation Schedule" shall apply; copies may be obtained in the Judge's Office.

d. Summer: From 8:00 A.M. on July 1st until 7:00 P.M. on July 31st each year (and the other parent is awarded the Weekend & Weekday Visitation described in subparagraphs (a) & (b) above). A parent who is otherwise ordered to pay child support shall continue to make child support payments for the period during which the visiting parent has summer visitation.

e. Easter: On Easter Sunday from 7:00 A.M. until 7:00 P.M. in each *even* numbered year, regardless of whether such conflicts with other provisions.

f. *Thanksgiving:* From 6:00 P.M. on Wednesday preceding Thanksgiving Day until 6:00 P.M. on the Sunday following in each *odd*-numbered year, regardless of whether such conflicts with other provisions.

g. *Christmas:* In *even*-numbered years, from 9:00 A.M. on December 20th until 4:00 P.M. on December 25th; *and* in *odd* numbered years, from 4:00 P.M. on December 25th until 6:00 P.M. on January 3rd next following, regardless of whether such conflicts with other provisions.

h. *Child's Birthday:* On the child's birthday from 6:00 P.M. until 9:00 P.M., regardless of whether such conflicts with other provisions. The visiting parent shall have all of the children at said times in order that said parent and all children may celebrate the child's birthday together.

i. *Father's Day:* The father shall have visitation from 7:00 A.M. until 6:00 P.M., regardless of whether such conflicts with other provisions.

j. *Mother's Day:* The mother shall have visitation from 7:00 A.M. until 6:00 P.M., regardless of whether such conflicts with other provisions.

k. *Other Major Holidays:* The visiting parent shall have visitation from 7:00 A.M. until 6:00 P.M. on the following "Other Major Holidays", with the other parent to have the children on said "Other Major Holidays" in the year opposite those years set out for the visiting parent:

- (1) Martin Luther King: Odd-numbered years
- (2) Nation Memorial Day: Even-numbered years
- (3) Labor Day: Odd-numbered years
- (4) Veterans Day: Even-numbered years.

l. In the event that Child(ren) Attends School in a System with Fall and Spring Breaks:

(1) If the school breaks are two weeks long, for the first week of the Fall break from the day following the last day of school at the beginning of the Fall vacation at 8:00 A.M. until the Sunday next following at 6:00 P.M. in each year. The custodial

parent shall have custody of the minor child(ren) during the second week of the Fall school break from Sunday at 6:00 P.M. until the following Sunday at 6:00 P.M. each year.

(2) For second week of the Spring school break from the second Sunday at 6:00 P.M. until the following Sunday at 6:00 P.M. each year. The custodial parent shall have custody of the minor child(ren) during the first week of the Spring school break each year from the last day of school which begins the Spring break until the Sunday next following at 6:00 P.M. in each year.

(3) If the school break(s) are not two (2) school weeks long, the parents shall alternate the exercise of each such break, with the non-custodial parent exercising the first such break following entry of the Order or Decree providing for such visitation, and the custodial parent exercising the second such break, and the parties alternating the exercise of each such break thereafter. It is the Court's intent that each parent be allowed to have the child(ren) every other Spring Break and every other Fall Break.

m. Special Family Events: Each parent shall have the child(ren) with her for special family events, such as weddings, funerals, and reunions, which pertain to members of the parents' immediate family (parents, grandparents, siblings and/or other children). Provided, however, that no such periods shall, without the other parent's prior consent, interfere with nor deprive a parent of his or her holiday, school break, special occasion, or out-of-town vacation periods with the child(ren). (School Break: Spring Vacation/Year Round School Breaks (as specified above); Holidays: Christmas/Thanksgiving/Easter/ "Other Major Holidays" (as set out above); Special Occasion: Child(ren)'s Birthday/Mother's Day/Father's. The parent seeking to have the child(ren) with him or her for the special family event shall provide as much advance notice to the other parent as possible. When the event falls on a weeknight or weekend when the child(ren) would normally not be with the parent who wishes to take them to the special event, the parent shall attempt to agree to switch weeknights or weekends, as the case may be. If the parents cannot otherwise agree, the make-up time shall be the next following weeknight (if a weeknight is missed) or weekend (if weekend time is missed).

n. Other Reasonable Times and Places: At all other times and places as the parties may agree.

7. **Preservation of Assets:** The parties are ordered and directed

to preserve, in their present form and location, all assets owned by them either jointly or individually, and are ordered not to sell, assign, transfer, conceal, remove from the jurisdiction of the Court, or in any manner dispose of, liquidate, conceal, encumber, dissipate or convert any assets of the parties, or change beneficiaries upon any life insurance policies, or alter any medical, hospitalization, or automobile insurance policies, or in any way alter the current cash value of any life insurance policy. However, this Order shall not prohibit the use of earned income to pay reasonable and lawful debts and living expenses of the parties, nor prohibit the use of physical assets in the same manner as the same had been used in the ordinary and customary activities of the parties prior to the filing of the action for divorce.

8. Payment of Monthly Expenses: The parties shall coordinate the payment of fixed monthly expenses (e.g. rent, mortgage payment, utilities, telephone, car loans, etc.) and other necessary living expenses of both parties. It is this Court's intent that the available incomes of both parties be used to maintain a "Financial Status Quo," to the closest extent possible and that both parties share *pro rata* in the payment of said expenses in situations where both parties have income.

9. Negotiations of Other Conditions: The parties are encouraged to mutually agree, if possible, on any other reasonable terms and conditions which will maintain the parties' status quo, pending final hearing; *provided, however*, that this Court expects any such agreement, if contrary to the orders set forth above, to be in writing, executed by both parties, and submitted to this Court for approval.

10. Showing Required for Evidentiary Hearing: In the event the foregoing, standing *pendente lite* orders do not resolve all matters raised by a motion or petition filed in the referenced action, then the attorney for the moving party shall have the burden of petitioning this Court *in writing* for an evidentiary hearing, *and showing good cause (by affidavit or other proof) of the necessity of such hearing, pendente lite.*

11. Rules of Court: This Court's "Rules of Court" are incorporated by reference herein and made a part of this Order as if set out in full. (If this Court's "Rules of Court" have not been received, a copy can be obtained from Judge's Office.

ORDERED this 12th day of March, 2012.

**ROBERT M. BAKER
CIRCUIT JUDGE**