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No. 20150720

In the Utah Court of Appeals

Kirsteen Blocker,
Petitioner/Appellee,

v.

Michael Blocker,
Respondent/Appellant.

On Appeal from the Fourth District Court, State of Utah
Utah County
Judge Taylor

Brief for Appellant

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UTAH APPELLATE COURTS

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List of Parties

Michael Blocker, Appellant

Kirsten Blocker, a.k.a. Kirsteen Morkel, Appellee (Hereinafter "Morkel")

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IN THE UTAH COURT OF APPEALS
STATE OF UTAH

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KIRSTEEN BLOCKER a.k.a. Morkel,
Petitioner and Appellee,

vs.

MICHAEL BLOCKER,
Respondant and Appellant.

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Appeal No. -CA

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Jurisdictional Statement

The Utah Court of Appeals has jurisdiction to hear this appeal pursuant to Utah Code Ann. § 78A-4-103(2)(h).

Statement of Issues & Standard of Review

a. Issue: Did the trial court err when it failed to state any finding that there had been a material change in the circumstances upon which the previous visitation award was based when it granted Petitioner's Petition to Modify and remove all conditions for her unsupervised visitation?

Standard of review: The standard of review for this issue, as an issue of law, is *de novo*. *Hogge v Hogge*, 649 P.2d 51 (1982).

b. Did the trial court err when it decided that Petitioner's inability to comply with conditions for her unsupervised parent time constituted a material change in circumstances upon which to base a modification of a custody award?

Standard of review: The standard of review for this issue, as an issue of law, is *de novo*.

Hogge v Hogge, 649 P.2d 51 (1982).

c. Did the trial court err when it signed the Order drafted by Petitioner's counsel a mere 3 days after it was submitted (when those days included a legal holiday and a weekend) when Petitioner's counsel had not served it on Respondent and when Respondent was not given the proper time to file an objection but did file a timely objection once he, on his own, found out about the existence of the Order?

Standard of review: The standard of review for this issue, as an issue of law, is *de novo*.

Hogge v Hogge, 649 P.2d 51 (1982).

d. Did the trial court err when it deprived Respondent of his right to Due Process by refusing to allow him to argue his Motion to Dismiss Petitioner's Petition to Modify during the hearing and instead merely stated that he had made his decision and was going to grant the Petition, the judge signed the Order without notifying the Respondent and never sent a copy of the Order to the Respondent, failed to act on two properly noticed and submitted motions that were not objected to for a period of six months, and when the judge changed a status conference into an evidentiary hearing without notice and did not give Respondent an opportunity to prepare or rebut Petitioner's witnesses?

Standard of review: The standard of review for this issue, as an issue of law, is *de novo*.

Hogge v Hogge, 649 P.2d 51 (1982).

e. Did the trial court err when converted Petitioner's Order to Show Cause into a Petition to Modify when the Petitioner herself stated on the Record that she was not seeking a Petition to Modify but only to have the court rule on who was in compliance with the existing order?

Standard of review: The standard of review for this issue, as an issue of law, is *de novo*. *Hogge v Hogge*, 649 P.2d 51 (1982). However, it is possible that the court has some discretion in this matter, in which case the standard of review would be abuse of discretion.

Statutory Provisions

The relevant portions of Utah Rules of Civil Procedure 7 are included in the Appendix.

Statement of the Case

This is an appeal from the Order Modifying Custody Order (see Appendix) granted by the Fourth District Court, Utah County, granting Morkel's Order to Show Cause, which was *sua sponte* converted into a Petition to Modify by Judge Taylor. In addition Judge Taylor refused to hear or rule on Blocker's properly pled and submitted motions, failed to allow Blocker to argue his case before the court, and did not give Blocker an opportunity to object to the Order once it was written and submitted by Morkel's counsel.

Statement of the Facts

Issue 1: The trial court's Order does not include any findings of fact at all. It simply states a conclusion that Morkel's Petition is granted and her visitation is now to be unsupervised without condition. Despite Blocker's repeated request that Judge Taylor give a reasoning for his order and Blocker's repeated citing of *Hogge v. Hogge*, the Judge simply stated, "I'm familiar with the law. That's my ruling." (Transcript June 10, 2015, page 9 lines 14-15) and "That's my ruling. I have wide discretion in these matters." (Transcript June 10, 2015, page 9 lines 18-19). And then when asked to specify where he found a material change in circumstances as required to support Morkel's Petition to Modify, Judge Taylor was unable to do so, instead stating, "I think there is satisfactory evidence in this file to demonstrate that what I'm ruling is in the best interest of the child. That's my order." (Transcript, June 10, 2015, page 11, lines 18-20.)

Issue 2: When Judge Davis originally ordered that Morkel's parent time visitation would be supervised unless certain conditions were satisfied some of the bases for that order were that he was giving her "one last chance" to show that she could follow court orders, cooperate with professionals, and to insure that she was working with the court-appointed therapist to address her parenting and co-parenting issues so that she could see her own negative behaviors and their impacts on our son and her own inability to reason, to identify her own issues and take responsibility for them. (See Findings of Fact, Order, and Judgement of Judge Davis Signed February 22, 2010 in Appendix.) In his Order Judge Davis stated that it was anticipated the Morkel would make some improvements: The Court is hopeful and expects that Kirsteen Morkel will make significant progress in both her parenting skills and in

her relationship with Mackay and Michael Blocker.” Judge Davis specifically did this at the urging of the Guardian ad Litem so that such improvement would not constitute a change in circumstances for purposes of modifying the order later.

Not only has Morkel not made any improvements, she has continued her bad behavior and Judge Taylor used that very bad behavior as justification for modifying the Order. When Morkel filed her Order to Show Cause both parties and the Judge clearly stated on the Record that this was not a Petition to Modify and was not going to be a Petition to Modify but was an Order to Show Cause asking the court to determine who was in compliance with Judge Davis’s Order. However, when we came to court the next time, Judge Taylor in and of himself stated that it was impossible for Morkel to comply with the Order because she had sued the Special Master, the Guardian ad Litem, Blocker’s Attorneys, and Judge Davis in Federal Court¹ and had threatened to sue the court-appointed conjoint therapist and child’s therapist. Judge Taylor further acknowledged that Morkel came to the court with unclean hands in the matter, but nevertheless, he *sua sponte* turned her Order to Show Cause into a Petition to Modify and ordered a superficial “Home Visit Report,” by a therapist of Morkel’s choosing.²

Issue 3: At the hearing on June 10, 2015, Judge Taylor instructed Morkel’s Counsel to draft the order. According to the Certificate of Service, Petitioner’s Counsel claims he mailed

¹ Judge Waddoups granted Defendants’ Motions to Dismiss in that case. Morkel unsuccessfully appealed to the Tenth Circuit. Judge Taylor was fully aware of Morkel’s behavior in that case and her actions to use litigation tactics to remove more than 20 past court-appointed professionals from this case.

² This report was later conducted by an unlicensed therapist who was sanctioned, issued a cease and desist letter, and fined by the Department of Professional Licensing for her involvement and report in this case. Nevertheless, Judge Taylor refused to strike the report or to remove the unlicensed therapist from the case despite Blocker’s properly pled and submitted motion to do so.

a copy of proposed order to Respondent on June 25, 2015. Respondent never received a mailing.³ On Thursday, July 2, 2015, Petitioner's Counsel filed the proposed order with the court. Judge Taylor signed the proposed order the very next business day, on Monday, July 6. Blocker found out about the order through Xchange on July 14 and immediately filed an objection to the proposed order with the court within the 10 day period, even though it had already been signed previously. (See copy in Appendix). No response was ever given to Blocker's objection. Further, Blocker never received a copy nor any notice from the court that the Order had been received or signed.

Issue 4: In advance of the hearing to be held on April 16, 2014 the court scheduled hearing to address Morkel's Order to Show Cause to Enforce the Order. Both parties expressly stated on the record that they were not seeking to modify the order but merely to have the court rule on who was in compliance with the existing order. Judge Taylor agreed that this was the purpose of the hearing. All parties and the judge explicitly agreed that this was not a Petition to Modify and was not going to be Petition to Modify but rather a hearing to determine who was in compliance. However, when the hearing actually took place, Judge Taylor *sua sponte* changed Morkel's Motion into a Petition to Modify based on the Morkel's noncompliance with the order putting her in a position where she couldn't comply with the order because she had sued the special master, the Guardian Ad Litem, and threatened to sue the child's court-appointed therapist.

³ The certificate of service also notes that "counsel of record" was served, however, as Petitioner's counsel was fully aware, Respondent's counsel, who had only made a limited appearance for a single hearing that was never held, officially withdrew at the beginning of the June 10 hearing and was not involved in that hearing. Additionally, said counsel also did not receive any proposed order in this matter.

On August 1, 2014 the court had a status conference scheduled in this case. The parties were both told that this was to be a status conference and nothing more. However, Morkel came to court with her expert, Victoria Burgess, and proceeded to introduce the report written by Ms. Burgess and ask the court to accept the report and grant her Petition to Modify at that time. Although the parties were explicitly told that this was NOT going to be an evidentiary hearing, the court agreed to accept the report. When Blocker objected to the admission of the report, Judge Taylor told Blocker that he could cross-examine Ms. Burgess. When Blocker said that he was not prepared to do so because the hearing was to be a status conference and not an evidentiary hearing, he was told that was his opportunity to question the witness. Because he was not prepared to do so, the witness did not take the stand, Judge Taylor accepted the report without any cross examination.

On November 21, 2014 Blocker filed a Notice to Submit for Decision on two motions, first a Motion to Dismiss Morkel's Petition to Modify and second, a Motion to Strike the Home Visit Report of Victoria Burgess. Judge Taylor never scheduled a hearing, signed, denied, or took any action on either of Blocker's motions. Instead he simply waited until June 2015 and summarily granted Morkel's Petition to Modify without any argument and without giving Blocker an opportunity to even argue his Motion to Dismiss or Motion to Strike even though they had been properly noticed for decision.

At the June 10, 2015 hearing Judge Taylor refused to allow Blocker to argue his Motion to Dismiss Morkel's Petition to Modify during the hearing and instead merely stated that Judge Taylor had made his decision and was going to grant the Petition. First, when the Judge asked Blocker to tell him what was pending before the court for that hearing and Blocker tried

to state what was pending, the Judge immediately cut him off, would not let him state the two motions that he had properly pending before the court (that had been properly noticed and submitted for decision) and instead went to Morkel's counsel and asked him to set the agenda for the hearing. (See Transcript in Appendix) Second, when Judge Taylor made his ruling Blocker tried to make the legal argument that Utah case law in *Hogge v. Hogge* did not allow the ruling (the argument he wanted to make initially), Judge Taylor cut him off and simply said that he had "broad discretion in these matters" and refused to give any basis in law for his decision. Curtly he told Blocker, "I'm sorry that you don't understand what I've ruled and the basis of my jurisdiction —Mr. Blocker, I'm sorry that you don't get it. I've made my ruling. I have earlier indicated I would treat the petition to modify — or the order to show cause as a petition to modify. I think there's satisfac — satisfactory evidence in this file to demonstrate that what I'm ruling is in the best interest of the child. That's my order." (Transcript June 10, 2015, page 11, lines 13-20).

Judge Taylor refused to hear or respond to Blocker's legal arguments on either of his properly pending motions. Then although it was Morkel's burden to show that her circumstances had changed to sufficient to warrant a modification of the custody order against her, Judge Taylor actually placed the burden on Blocker, saying, "I want you to tell me why I should make a change [back to what was in Judge Davis's Order and not Taylor's temporary order]. Why is the status quo [giving Morkel unconditional visitation] not best for your child?" (Transcript, June 10, 2015, page 6, lines 11-13). When Blocker tried to explain that nothing in Morkel's behavior had ever changed including the reasons why Morkel had lost custody in the first place, Judge Taylor again put the burden on Blocker asking for specific negative behavior

during the past year. (Transcript, June 10, 2015, page 6, lines 14-18). Blocker did what he could to explain the situation and even offered that the child's court-appointed therapist would be able to testify to the continuing harm Morkel causes the child, but Judge Taylor was uninterested, and instead decided that because the files was, in his words, "a procedural mess," and "really hard to figure out what's going in this case," that instead of trying to figure out whether the circumstances had actually changed, he would treat his temporary order as the "permanent state of affairs." (Transcript, June 15, 2015, page 8).

As outlined above Judge Taylor signed the Order without notifying Blocker and never sent a copy of the Order to Blocker.

Issue 5: In advance of the hearing to be held on April 16, 2014 the court scheduled hearing to address Morkel's Order to Show Cause to Enforce the Order. Both parties expressly stated on the record that they were not seeking to modify the order but merely to have the court rule on who was in compliance with the existing order. Judge Taylor agreed that this was the purpose of the hearing. All parties and the judge explicitly agreed that this was not a Petition to Modify and was not going to be Petition to Modify but rather a hearing to determine who was in compliance. However, when the hearing actually took place, Judge Taylor *sua sponte* changed Morkel's Motion into a Petition to Modify based on the Morkel's noncompliance with the order putting her in a position where she couldn't comply with the order because she had sued the special master, the Guardian Ad Litem, and threatened to sue the child's court-appointed therapist.

Summary of the Argument

The Court should reverse the trial court's grant of Morkel's petition to modify because she did not show a material change in circumstances to justify such a modification and the court denied Blocker due process in summarily finding a change when none was proved.

The trial court erred when it failed to state any finding that there had been a material change in the circumstances upon which the previous visitation award was based when it granted Morkel's Petition to Modify and removed all conditions for her unsupervised visitation.

The trial court erred when it decided that Morkel's inability to comply with conditions for her unsupervised parent time constituted a material change in circumstances upon which to base a modification of a custody award.

The trial court erred when it signed the Order drafted by Morkel's counsel a mere three (3) days after it was submitted (when those days included a legal holiday and a weekend) when Morkel's counsel had not served it on Blocker and when Blocker was not given the proper time to file an objection but did file a timely objection once he, on his own, found out about the existence of the Order?

The trial court err when it deprived Blocker of his right to Due Process by refusing to allow him to argue his Motion to Dismiss Petitioner's Petition to Modify during the hearing and instead merely stated that he had made his decision and was going to grant the Petition, the judge signed the Order without notifying Blocker and never sent a copy of the Order to Blocker, failed to act on two properly noticed and submitted motions that were not objected to for a period of six months, and when the judge changed a status conference into an

evidentiary hearing without notice and did not give Blocker an opportunity to prepare or rebut Morkel's witnesses.

The trial court err when it converted Morkel's Order to Show Cause into a Petition to Modify when Morkel herself stated on the Record that she was not seeking a Petition to Modify but only to have the court rule on who was in compliance with the existing order.

Argument

THE COURT SHOULD REVERSE THE TRIAL COURT'S GRANT OF MORKEL'S PETITION TO MODIFY BECAUSE SHE DID NOT SHOW A MATERIAL CHANGE IN CIRCUMSTANCES TO JUSTIFY SUCH A MODIFICATION AND THE COURT DENIED BLOCKER DUE PROCESS IN SUMMARILY FINDING A CHANGE WHEN NONE WAS PROVED.

- A. The trial court erred when it failed to state any finding that there had been a material change in the circumstances upon which the previous visitation award was based when it granted Morkel's Petition to Modify and removed all conditions for her unsupervised visitation.

In *Hogge v. Hogge*, 649 P.2d 54 (Utah 1982), the Utah Supreme Court expressly requires a trial court to articulate a specific finding in its order showing that there has been a material change in circumstances before it grants a Petition to Modify a Custody Award. The Court stated, "Accordingly, we hold that in the future a trial court's decision to modify a decree by transferring custody of a minor child must involve two separate steps. In the initial step, the court will receive evidence only as to the nature and materiality of any changes in those circumstances upon which the earlier award of custody was based. In this step, the party seeking modification must demonstrate (1) that since the time of the previous decree, there have been changes in the circumstances upon which the previous award was based; and (2)

that those changes are sufficiently substantial and material to justify reopening the question of custody. The trial court **must make a separate finding as to whether this burden of proof has been met.** If so, the court, either as a continuation of the same hearing, or in a separate hearing, will proceed to the second step. However, where that burden of proof is not met, the trial court will not reach the second step, the petition to modify will be denied, and the existing custody award will remain unchanged.” *Id.* (emphasis added). Judge Taylor’s order in this case not only fails to have a “separate finding” as to whether Morkel met the burden of proof for a change in circumstances, the order has no findings of fact at all. The Order has only the declaration that the custody award is modified in Morkel’s favor with no basis given whatsoever. This clearly does not satisfy the requirements set forth by the Supreme Court in *Hogge* and alone requires reversal of the district court’s order. However, even more important than this technical violation of *Hogge* is the substantive violation that follows.

B. The trial court erred when it decided that Morkel’s inability to comply with conditions for her unsupervised parent time constituted a material change in circumstances upon which to base a modification of a custody award.

In *Hogge v. Hogge*, 649 P.2d 54 (Utah 1982), the Utah Supreme Court expressly requires a trial court to find a material change in circumstances before modifying a custody award. This material change is not to any circumstance in the case but is required to be specifically to “the circumstances upon which the previous award was based.” *Id.*

The material change in circumstances in this case is Morkel’s inability to comply with the conditions of her unsupervised parent time, including the appointment of and cooperation with a special master, along with paying the fees of the Special Master, conjoint therapy with

Dr. Kirk Thorn, and individual therapy to address the issues outlined in Dr. Matt Davies's report and the other reports listed in the court order. Because of Morkel's own actions the special master, Sandra Dredge, has withdrawn from the case and Dr. Thorn is unable to maintain a professional relationship with Morkel. Because the alleged change is based on Morkel's own actions to sabotage the conditions to have her gain unsupervised parent time, she brings her motion to modify with unclean hands. Further, Morkel sued Judge Davis, the Special Master Sandra Dredge and the Guardian Ad Litem Kelly Peterson and threatened to sue Dr. Kirk Thorn, Mackay's court appointed therapist that she was to be in conjoint therapy with. Due to her actions, these court appointed experts had to withdraw from the case or from working with her. Therefore her actions have made it impossible for her to fulfill her pathway to receive statutory unsupervised parent time.)

In addressing this material change in circumstances, the trial court should have first looked at whether there had been changes in the circumstances "upon which the previous award was based." Those circumstances were Morkel's enmeshment with Mackay, her inability to recognize her parenting issues, her ability to see and understand her issues that caused her to lose custody, and her inability to support Mackay's relationship with his father. Under the second part of the *Hogge* analysis Morkel would need to show substantial and material changes to those circumstances—not changes in the circumstances related to the conditions placed on her parent time. Therefore, if there was proof of a substantial change in circumstances, the trial court should only have modified the order to allow Morkel to comply with conditions similar to those in Judge Davis's original order. The trial court erred by striking any and all conditions from the order. Morkel did nothing to show that her circumstances had changed

with regard to the facts that prompted Judge Davis to make her unsupervised parent time conditional. As such, the trial court erred in modifying the order to give her unsupervised time but, instead, should have imposed substitute conditions with which she could comply (e.g. a new special master, a new conjoint therapist, or an arrangement for her individual therapist to work with Dr. Thorn, Mackay's therapist, etc.). For this reason this Court should reverse the trial court's grant of Morkel's Petition to Modify.

C. The trial court erred when it signed the Order drafted by Morkel's counsel a mere three (3) days after it was submitted (when those days included a legal holiday and a weekend) when Morkel's counsel had not served it on Blocker and when Blocker was not given the proper time to file an objection but did file a timely objection once he, on his own, found out about the existence of the Order?

Utah Rule of Civil Procedure 7(j) governs orders of the court. (see full text in Appendix). Subsection (j)(2) directs that "within 14 days of being directed by the court to prepare a proposed order confirming the court's decision, a party must serve the proposed order on the other parties for review and approval as to form." *Id.* Subsection (j)(4) then outlines that "a party may object to the form of the proposed order by filing an objection within 7 days after the order is served." *Id.* Finally, Subsection (j)(5) instructs counsel on the filing of the proposed order, and states that the party preparing a proposed order *must* file it when one of three conditions has occurred, 1) "after all other parties have approved the form of the order (The party preparing the proposed order must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.);" 2) "after the time to object to the form of the order has expired (The party preparing the proposed order must also file a certificate of service of the proposed order);" or 3) "within 7 days after a party has

objected to the form of the order (The party preparing the proposed order may also file a response to the objection).” *Id.*

In this case Morkel’s counsel did not follow any of the requirements of Rule 7 and Judge Taylor furthered the violation of the Rule by signing the order a mere 3 days after it was submitted to him and did nothing to remedy the situation when he received Blocker’s timely objection to the Order as soon as Blocker found out about the Order on his own by searching Xchange a few days after the Order was signed. At the hearing on June 10, 2015, Judge Taylor instructed Morkel’s Counsel to draft the order. According to the Certificate of Service, Petitioner’s Counsel claims he mailed a copy of proposed order to Respondent on June 25, 2015. Respondent never received a mailing. On Thursday, July 2, 2015, Petitioner’s Counsel filed the proposed order with the court. Judge Taylor signed the proposed order the very next business day, on Monday, July 6. Blocker found out about the order through Xchange on July 14 and immediately filed an objection to the proposed order with the court even though it had already been signed previously. No response was ever given to Blocker’s objection. Further, Blocker never received a copy nor any notice from the court that the Order had been received or signed.

D. The trial court err when it deprived Blocker of his right to Due Process by refusing to allow him to argue his Motion to Dismiss Petitioner's Petition to Modify during the hearing and instead merely stated that he had made his decision and was going to grant the Petition, the judge signed the Order without notifying Blocker and never sent a copy of the Order to Blocker, failed to act on two properly noticed and submitted motions that were not objected to for a period of six months, and when the judge changed a status conference into an evidentiary hearing without notice and did not give Blocker an opportunity to prepare or rebut Morkel's witnesses.

In *Jensen ex rel. Jensen v. Cunningham*, 2011 UT 17, ¶ 95, 250 P.3d 465, 488 the Utah Supreme Court stated, "Article I, section 7 of the Utah Constitution contains a procedural component. Under it, "notice and opportunity to be heard ... must be observed in order to have a valid proceeding affecting life, liberty, or property." *Wells v. Children's Aid Soc'y of Utah*, 681 P.2d 199, 204 (Utah 1984). Additionally, "[t]o be considered a meaningful hearing, the concerns of the affected parties should be heard by an impartial decision maker." *Chen v. Stewart*, 2004 UT 82, ¶ 68, 100 P.3d 1177 (internal quotation marks omitted)."

On August 1, 2014 the court had a status conference scheduled in this case. The parties were both told that this was to be a status conference and nothing more. However, Morkel came to court with her expert, Victoria Burgess, and proceeded to introduce the report written by Ms. Burgess and ask the court to accept the report and grant her Petition to Modify at that time. Although the parties were explicitly told that this was NOT going to be an evidentiary hearing, the court agreed to accept the report. When Blocker objected to the admission of the report, Judge Taylor told Blocker that he could cross-examine Ms. Burgess. When Blocker said that he was not prepared to do so because the hearing was to be a status conference and not an evidentiary hearing, he was told that was his opportunity to question

the witness. Because he was not prepared to do so, the witness did not take the stand, Judge Taylor accepted the report without any cross examination.

This is analogous to a professional football coach and a professional referee and a person who doesn't typically even play football scheduling a meeting to talk about a future game but then coming to that meeting and having the professional coach show up with his team ready to play and having the referee say "Let's play now." When Blocker said that he thought the purpose of the meeting was to talk about the game and schedule it for another time, the referee, the Judge, said, "The other coach (meaning Morkel's counsel) has his team here ready to play ball now, so let's play. If you're not prepared and don't have your team here it's your fault." The question becomes how does the novice get it right that the purpose of the meeting is to schedule the future game, as the term "status conference" entails, but the two experienced professionals come up with the same wrong answer?

In addition, Judge Taylor violated Blocker's due process rights by refusing to allow Blocker to argue his Motion to Dismiss Morkel's Petition to Modify during the hearing and instead merely stating that he had made his decision and was going to grant the Petition. If Blocker is not allowed to rebut or quote the law how can due process take place? Blocker tried to bring up the standard in *Hogge v. Hogge* and argue his position (that no change in circumstance has been established by Morkel and furthermore that her suing Judge Davis, The Special Master and Guardian ad Litem was clear and convincing evidence that "this one last chance" given to her by Judge Davis was disregarded by Morkel. Although Judge Taylor had knowledge of Morkel's ongoing behavior, he did not allow Blocker to make this argument. Instead Judge Taylor willfully disregarded the evidence and in essence suppressed if not

omitted the evidence and the law from being presented.) Instead the Judge Taylor simply said that he was aware of the law and that while Blocker may not like it, he was going to rule. Essentially he said, "I know the law but I'm not going to follow it." Judge Taylor knowing the law, willfully violated it, therefore willfully deprived Blocker's right to due process. If Judge Taylor really was aware of the law then he knowingly violated it by denying Blocker the right to argue his position, which implies a violation of due process.

Judge Taylor signed the Order without notifying Blocker and never sent a copy of the Order to Blocker, --rules require that each party see the order prior to signing so that each party has the opportunity to object if it isn't correct. Again Blocker never receive a copy of the order from either Mr. Felix/Morkel's attorney or Judge Taylor. The Appellate record includes multiple "returned for improper address" notes, yet Mr. Blocker's address is correct on all of his pleadings and on all documentation he has filed with the court.

Additionally Judge Taylor signed the court order almost immediately after receiving it and did not wait for the 10 day period that is required. This implies that he had no intension of considering any objection from Blocker or receiving any objection from Blocker.

Judge Taylor failed to act on two properly noticed and submitted motions for a period of six months. These were a motion to dismiss and a motion to strike Dr. Burgess's report. These motions were filed in November 2014 after Morkel's counsel responded to each of them, the trial court never acted on either motion. In Feb 2015 Mr. Blocker submitted renewed motions to dismiss that again were never responded to by Ms. Morkel or acted on by Judge Taylor. Even at the hearing in 2015 Judge Taylor failed to address either motion. The Burgess motion was clearly a motion that needed to be ruled on as her report formed a partial basis for

Morkel's petition to modify as it was her only potential evidence. The fact Dr. Burgess's report was found by the Department of Professional Licensing to be a violation of state law is something that the trial court should have taken seriously and sought to remedy. The trial court erred and violated Blocker's due process by not striking the illegal home visit report and continuing to place credence in a report that by its very nature was deemed to be a violation of the law. Not to mention that the report did not follow the guidelines that were ordered by the trial court itself. In other words, the court had already made its decision regardless of the law or lack of evidence, and when the judge changed a status conference into an evidentiary hearing without notice and did not give Blocker an opportunity to prepare or rebut Morkel's witnesses the court further violated Blocker's right to due process.

The court further violated Blocker's due process by converting Morkel's Order to Show Cause into a Petition to Modify *sua sponte* when such wasn't properly before the court and was against both parties' stated reasons for being there. Judge Taylor didn't offer Blocker the opportunity to rebut, there was never a scheduled hearing for him to address it, there never was an evidentiary hearing so there was never an opportunity to rebut the evidence but in addition there was now no evidence at that point at all because the home study report from Burgess was debunked and gone so there was no evidence supporting her petition at that point for Blocker to refute at that point. The only real evidence the court had was the evidence that showed that Morkel was still not willing to abide by Judge Davis's previous order. The court in essence said that if she couldn't abide by the law then the law would need to change to abide by Morkel's behavior and by so doing removed the requirement that were set in place to protect the child and Blocker from Morkel's ongoing bad behavior.

E. The trial court err when it converted Morkel's Order to Show Cause into a Petition to Modify when Morkel herself stated on the Record that she was not seeking a Petition to Modify but only to have the court rule on who was in compliance with the existing order.

There does not seem to be any Utah law on point as to whether a judge has the authority to change a party's pleading to a different kind of pleading on his own without the party's request and over the party's explicit prior statement that what the court was doing was *not* what the party intended. However, such action seems to be contrary to basic principles of justice.

Having been to court approximately 54 times on this case I have been told time and time again that I can't bring something up that isn't properly before the court and that even if we did the judge couldn't rule on it because it wasn't properly before the court. So how does a judge make up something on his own and rule on it when not only was it not even before the court at all but both parties explicitly stated that it was not what they wanted—in fact Morkel had specifically stated that she did NOT want to modify the custody order.

Judges should be able to suggest that it should have been a Petition to Modify rather than an Order to Cause, giving parties options to consider is one thing, but when you are clearly giving one party options to consider that will only benefit that party and not giving general options to both parties, and especially when the judge is actually acting on behalf of one party it puts the judge in position of attorney for the party rather than the position of an impartial judge. The other party, especially when acting pro se, is not only denied guidance and suggestions but also due process. In essence the Judge acts as the party's attorney rather than as the judge.

Thus the court further violated Blocker's due process by converting Morkel's Order to

Show Cause into a Petition to Modify *sua sponte* when such wasn't properly before the court and was against both parties' stated reasons for being there. Judge Taylor didn't offer Blocker the opportunity to rebut, there was never a scheduled hearing for him to address it, there never was an evidentiary hearing so there was never an opportunity to rebut the evidence but in addition there was now no evidence at that point at all because the home study report from Burgess was debunked and gone so there was no evidence supporting her petition at that point for Blocker to refute at that point. The only real evidence the court had was the evidence that showed that Morkel was still not willing to abide by Judge Davis's previous order. The court in essence said that if she couldn't abide by the law then the law would need to change to abide by Morkel's behavior and by so doing removed the requirement that were set in place to protect the child and Blocker from Morkel's ongoing bad behavior.

Conclusion

For the foregoing reasons this Court should reverse the decision of the district court and reinstate Judge Davis's Custody Order and give direction to the district court that any modification to be made is only to substitute conditions for Morkel's unsupervised parent time that are consistent with the original order. In addition, Blocker requests that this Court award him the appropriate fees and costs associated with this appeal.

I'd like to give some perspective as to what this case has been like. To start off, we have been to court approximately 54 times. And in addition to that, I've had multiple other cases stemming from this case: one was a stalking injunction against Morkel and her parents, which was awarded against her mother; one was a federal civil suit Morkel brought against me,

Judge Davis, the Special Master, the Guardian ad Litem, my attorneys, and others; and multiple others that Morkel has brought about me and other professionals that have been appointed or otherwise involved in this case. When I first started this process my attorney explained that this isn't about right and wrong, it's about the law. Now having been in litigation for more than thirteen years, I know it's not about right and wrong, and I know it's not about the law either. It's about what some man who has authority wants to do. Right and wrong, the law, and evidence are really not that important but are only factors in proceedings and rulings. I thought from the beginning that Morkel's behavior would be obvious enough that I had a chance of winning custody, after she had threatened to sue the first three court-appointed experts I thought that three would be sufficient for the court to see what was happening and change custody. I was wrong. Custody didn't change until we had gone through fifteen court-appointed experts and three custody evaluations. And Morkel couldn't call any of the fifteen to come and testify on her behalf, and most of the fifteen wrote numerous letters to the court about her bad behavior and about they could not work with her. What makes this even more absurd is that her attorneys (meaning she has gone through more than a dozen of them) in almost every appointment chose the court-appointed expert. In fact, the first court-appointed expert was Dr. John Skidmore. Dr. Skidmore was her expert witness in our first trial in 2004. And after Judge Davis gave her custody he appointed her expert witness to act as a special master even though he had been an expert who testified on her behalf and had no experience whatsoever as a special master. After eight months with no progress and no improvement on behalf of Morkel, Dr. Skidmore finally resigned stating that he could not work with her.

In 2007, on our son's fifth birthday, Morkel accused me yet again of sexually molesting him. When detective Gains of the Orem P.D. concluded his investigation, he said that he could set his calendar by how often Morkel comes in with a new accusation, and that he would not do any further investigations regarding my son or me, unless the accusation came from a credible third party professional. However, the following week Morkel filed an ex-parte motion with 10 pages of sexual and other types of abuse by me against my son, with Commissioner Patton in the Fourth District Court in Provo. This resulted in me being put on supervised parent time, over a hundred hours of my attorney's time, a three hundred page response by my attorney with more reports from my son's doctor, DCFS, Provo, Orem and Sandy Police Departments, and past court-appointed experts and evaluator stating that her allegations were unfounded and that she is the problem. Despite all of this, Commissioner Patton gave her another chance and told her that if she did not follow his order, he would change custody. Six months later our son's Guardian ad Litem and court-appointed therapist came before Commissioner Patton, with pages of violations of the court order by Morkel, and the Guardian ad Litem argued and proffered on behalf of the therapist that our son was in danger and that custody should be changed immediately. Commissioner Patton not only ignored his previous order that he would change custody, he also ignored their testimony and made an order giving Morkel even more time. As unbelievable as this is, it is the pattern of this case. Nearly two years later and two more custody evaluations, I received sole physical and legal custody. The Custody evaluator that was chosen by Morkel, stated that our son was the most emotionally abused child that he had seen in his twenty years of practice. After all of this, after spending and going into debt, I'm financially ruined. This case has cost well over

\$500,000, my attorney's file is over 8 ft. thick, and for the past two years I have, out of necessity been representing myself. I have spent thousand if not tens of thousands of hour on this case. Why? because I would not walk away from my son and because narcissistic Judges think they know what's best and have no regard for the law.

If you read this and find it unbelievable, you ought to try living it.

It's tragic that my son has been so emotionally abused, but also tragic is the abuse that he has suffered at the hands of the court system. The system itself is abusive by requiring a child to go through years of examinations and litigation with expert after expert reaching the same conclusion and yet doing nothing to stop it and the solution continuing to be to get yet another expert opinion. My son and I will carry the scars of that abuse for the rest of our lives. It's as if the court is seeking to have an expert validate its wisdom rather than admit that the court got it wrong initially by not changing custody in the first place rather than waiting years to finally do it.

For you, the Appellate Court, this is just another case; it doesn't cost you anything. It has cost my son and me now nearly fourteen years and all that we have. Because it costs you nothing, you do nothing.

Is there any such thing as the rule of law or a fair trial?

Respectfully submitted,



Michael Blocker

Pro Se, Appellant

DATE: 3 December 2015

Certificate of Service

I hereby certify that on the 3rd day of December 2015, I did hand deliver two true and correct copies of the foregoing Brief of Appellant to Wesley Felix, Salt Lake City, Utah.

Michael Blocker

Word Count Certification

I, Michael Blocker, hereby certify that I prepared the foregoing brief and that the word count for this brief is 8,010. I certify that I prepared this document in Word 2010, and that this is the word count Word generated for this document.

December 3, 2015



Michael Blocker, *Pro Se*

Appendix

Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.

(j) Orders.

(j)(1) Decision complete when signed; entered when recorded. However designated, the court's decision on a motion is complete when signed by the judge. The decision is entered when recorded in the docket.

(j)(2) Preparing and serving a proposed order. Within 14 days of being directed by the court to prepare a proposed order confirming the court's decision, a party must serve the proposed order on the other parties for review and approval as to form. If the party directed to prepare a proposed order fails to timely serve the order, any other party may prepare a proposed order confirming the court's decision and serve the proposed order on the other parties for review and approval as to form.

(j)(3) Effect of approval as to form. A party's approval as to form of a proposed order certifies that the proposed order accurately reflects the court's decision. Approval as to form does not waive objections to the substance of the order.

(j)(4) Objecting to a proposed order. A party may object to the form of the proposed order by filing an objection within 7 days after the order is served.

(j)(5) Filing proposed order. The party preparing a proposed order must file it:

(j)(5)(A) after all other parties have approved the form of the order (The party preparing the proposed order must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.);

(j)(5)(B) after the time to object to the form of the order has expired (The party preparing the proposed order must also file a certificate of service of the proposed order.); or

(j)(5)(C) within 7 days after a party has objected to the form of the order (The party preparing the proposed order may also file a response to the objection.).



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Attorney for Petitioner Kirsteen Morkel

**IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR UTAH COUNTY
STATE OF UTAH – PROVO DEPARTMENT**

KIRSTEEN BLOCKER nka KIRSTEEN
MORKEL,

Petitioner,

vs.

MICHAEL P. BLOCKER,

Respondent.

**ORDER MODIFYING CUSTODY
ORDER**

Case No.: 024402553

Judge James R. Taylor

Commissioner: Thomas Patton

This matter came for a hearing before the Honorable James R. Taylor on June 10, 2015. Petitioner was present, represented by counsel, Wesley D. Felix. Respondent was present and appeared *pro se*. THE COURT, after considering briefing, the argument of counsel and otherwise being fully informed in this matter, and for good cause appearing ORDERS as follows:

IT IS HEREBY ORDERED, that the Court's provisional ruling, entered on August 22,

2014, which Order granted the Petitioner's Petition to Modify on a temporary basis providing for the Petitioner's right to visitation consistent with the statutory minimum SHALL BE MADE PERMANENT. Therefore, the Petition to Modify is GRANTED as follows:

1. Petitioner shall have the right to visitation with her minor son in a manner consistent with the guidelines and statutory minimums as established at Utah Code Ann. §30-3-35.
2. Each party is to bear their own costs and attorney fees.

This is the Final Order of THE COURT in this matter and no further Order is required.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June 2015, I caused a true and correct copy of the foregoing **[PROPOSED] ORDER TEMPORARILY MODIFYING CUSTODY ORDER AND SETTING ADDITIONAL MATTERS FOR HEARING WITHIN 90 DAYS** to be served via the Court's electronic filing system upon all counsel of record and by mail to the Respondent Michael P. Blocker.

/s/ Wesley D. Felix

MICHAEL P. BLOCKER
PRO SE
1456 N. 350 EAST
OREM, UT 84057
801-420-3363

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

KIRSTEEN BLOCKER,
Petitioner,

vs.

MICHAEL BLOCKER,
Respondent.

:
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:
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:

**MOTION OBJECTING TO
PETITIONER'S ORDER OF JUNE 10,
2015**

Civil No.: 024402553

Judge James Taylor

MICHAEL BLOCKER RESPONDS TO PETITIONER'S PROPOSED "ORDER
MODIFYING CUSTODY" of June 10, 2015, AS FOLLOWS:

The Petitioners proposed order does not have any findings of fact.

The Petitioners order does not state any basis in law, or any grounds for modification of
the standing court order of August 22, 2009.

The order referrers to the final order of the court dated August 22, 2009 as a provisional
ruling rather than "FINDINGS OF FACT, ORDER, AND JUDGMENT" that is stated on the
order of August 22, 2009.

The hearing of June 10, 2015 was scheduled to address the motions before the court,

hence there was no evidence presented to the court or an opportunity given to the Respondent to prepare and present evidence to the court.

DATED this ____ day of May 2014.

MICHAEL BLOCKER, Respondent

Certificate of Service

I certify that on this ____ day of May 2014, I have mailed first-class postage prepaid a copy of this motion to Petitioner's attorney.

Wesley D. Felix
Mitchell Barlow & Mansfield, P.C.
Boston Building
Nine Exchange Place, Suite 600
Salt Lake City, Utah 84111

4TH DISTRICT COURT - PROVO
UTAH COUNTY, STATE OF UTAH

KIRSTEEN DIDI BLOCKER : NOTICE OF
Petitioner, : ORAL ARGUMENT
VS. :
MICHAEL PHILLIP BLOCKER : Case No: 024402553 DA
Respondent. : Judge: JAMES R TAYLOR
: Date: April 13, 2015

ORAL ARGUMENT is scheduled.

Date: 06/10/2015

Time: 02:00 p.m.

Location: Fourth floor, Rm 403

FOURTH DISTRICT COURT

125 N 100 W

PROVO, UT 84601

Before Judge: JAMES R TAYLOR

This matter is scheduled for oral argument on the motion to withdraw and all pending motions. Please plan to be present in the courtroom for this hearing.

The court will provide an interpreter upon request. If you need an interpreter, please notify the court at (801)429-1000 five days before the hearing.

Individuals needing special accommodations (including auxiliary communicative aids and services) should call the court at (801)429-1037 three days prior to the hearing. For TTY service call Utah Relay at 800-346-4128.

Case No: 024402553 Date: April 13, 2015

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 024402553 by the method and on the date specified.

EMAIL: WESLEY D FELIX wfelix@mbmlawyers.com

EMAIL: JANET GRIFFITHS PETERSON janet@heritagelawutah.com

Date: 04/13/2015

/s/ SHERRY A TAYLOR

Clerk/Clerk of Court

IN THE FOURTH JUDICIAL DISTRICT COURT
OF UTAH COUNTY, STATE OF UTAH

KIRSTEEN DIDI BLOCKER,)	
)	*** PRIVATE ***
Petitioner,)	
)	
vs.)	Case No. 024402553
)	
MICHAEL PHILLIP BLOCKER,)	
)	
Respondent.)	

Oral Argument
Electronically Recorded on
June 10, 2015

BEFORE: THE HONORABLE JAMES R. TAYLOR
Fourth District Court Judge

APPEARANCES

For the Petitioner: Wesley D. Felix
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For the Respondent: Michael Phillip Blocker
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P R O C E E D I N G S

(Electronically recorded on June 10, 2015)

THE COURT: Call Blocker against Blocker. Mr. Blocker, you're here representing yourself?

MR. BLOCKER: Correct.

THE COURT: Mr. Felix, you're here for Ms. Blocker; is that correct?

MR. FELIX: Yes, I am, your Honor.

THE COURT: Very good.

UNIDENTIFIED COUNSEL: Your Honor, I entered a limited appearance in October, and recently filed a withdrawal of Counsel on that. I just -- I'm here in abundance of caution in case the Court has any questions.

THE COURT: A limited, limited appearance.

UNIDENTIFIED COUNSEL: A very limited appearance.

THE COURT: Okay. All right, thank you.

UNIDENTIFIED COUNSEL: If the Court has no further questions, then --

THE COURT: I don't.

UNIDENTIFIED COUNSEL: -- I'd like to be excused.

THE COURT: Thank you.

UNIDENTIFIED COUNSEL: Okay.

THE COURT: Thanks. You know, I've spent some time reviewing this file trying to figure out exactly where we are with this case. Mr. Blocker, why don't you go first. Tell me

1 where you -- what you perceive the status of this case to be
2 and what is before me to decide.

3 MR. BLOCKER: Would you like be to take the podium or
4 just speak from here?

5 THE COURT: You can speak from there.

6 MR. BLOCKER: Okay, what is before you are several
7 motions that I've submitted. On my side, the motion to strike
8 Dr. Burgess' report, and a motion to strike or withdraw the
9 petition to modify. Those are the two main ones on my side.
10 On her side her attorney's motion to withdraw, which I don't
11 have any objection to.

12 THE COURT: Summarize the case for me, Mr. Felix.
13 Where are we on this case?

14 MR. FELIX: Your Honor, it's difficult, and I've had
15 the same problem as you, I think, since I began on this case
16 because the docket is so long. A lot of it's very old, going
17 back many years, but certainly all the way back to 2010. What
18 I would describe as a provisional order was entered on February
19 22nd, 2010. There was --

20 THE COURT: Why would you think it's provisional?
21 It was -- I have a copy of it here. That was Judge Davis'
22 ruling? That seemed to me to be the last operative ruling
23 that definitively defined custody and parent time that you --

24 MR. FELIX: I agree it may be the last operative, but
25 it certainly was not final, and that's --

1 THE COURT: Why did you not characterize -- why would
2 you not characterize it as final?

3 MR. FELIX: Well, because there was an appeal. I think
4 we attached the actual --

5 THE COURT: Well, the appeal was -- the appeal was
6 stricken because it said it didn't have a final order.

7 MR. FELIX: Exactly, and the order that wasn't final
8 was the February 22nd, 2010 order.

9 THE COURT: Uh-huh.

10 MR. FELIX: So clearly as of the time of (inaudible),
11 which I think was January in 2011, there had never been, and I
12 believe to this date never has been a final order.

13 THE COURT: Okay, well, we have-- we have a decree, and
14 we have a decree that actually gave-- I think it initially gave
15 custody to Mom. Then that was changed. There was a petition
16 to modify, and that was changed. Custody was given to Dad;
17 and as I see it right now, Dad has custody, Mom has statutory
18 visitation. What has changed since that was set up was her
19 visitation which was supervised is no longer supervised; is
20 that accurate?

21 MR. FELIX: Absolutely, your Honor.

22 THE COURT: Is that accurate?

23 MR. FELIX: The only emphasis I would add to that is
24 since August in 2014, to my knowledge everyone has behaved.
25 There haven't been any significant problems. There's been

1 visitation which I believe is certainly in the best interest of
2 the child on a regular basis --

3 THE COURT: Uh-huh, uh-huh.

4 MR. FELIX: -- according to the minimum visitation
5 schedule, and that has happened on an uninter -- excuse me --
6 uninterrupted basis for --

7 THE COURT: Okay.

8 MR. FELIX: -- for nearly a year. So that speaks, I
9 think, very clearly to the fact that the situation can continue
10 as it is continuing, and I believe that's in the best interest
11 of the child.

12 THE COURT: Okay.

13 MR. FELIX: That's really all that we would want, your
14 Honor, is --

15 THE COURT: So going forward, that's what you would
16 like is --

17 MR. FELIX: That is absolutely --

18 THE COURT: -- status quo to continue?

19 MR. FELIX: Yes, your Honor.

20 THE COURT: All right. Mr. Blocker, what is it that
21 you seek?

22 MR. BLOCKER: I seek to have the order of Judge Davis
23 continue as it was written. Currently she does have statutory
24 visitation on a temporary basis. You granted her that tempor-
25 arily.

1 THE COURT: Why shouldn't I make it permanent?

2 MR. BLOCKER: Because it goes contrary to the order of
3 Judge Davis.

4 THE COURT: No, give me a substantive reason. That's
5 procedural.

6 MR. BLOCKER: Okay.

7 THE COURT: Substantive, what's in the best interest of
8 this child?

9 MR. BLOCKER: Okay, well, you're asking me to put the
10 cart before the horse.

11 THE COURT: No, I want to hear you tell me why I should
12 make a change. Why is the present status quo not best for your
13 child?

14 MR. BLOCKER: Because her behaviors haven't changed.
15 The behaviors that were consistent with why she lost custody
16 have not changed.

17 THE COURT: Specifically? What has happened in the
18 last year?

19 MR. BLOCKER: Your Honor, with all due respect, we were
20 called in for a certain reason. I was prepared for that. If
21 you want me to address that I will, but --

22 THE COURT: I do.

23 MR. BLOCKER: Okay, the parental alienation behavior,
24 the talking bad about Dad, trying to get my son to talk bad
25 about me.

1 THE COURT: Do you have witnesses that can tell me that
2 if I set this for hearing?

3 MR. BLOCKER: If we were going to have witnesses I'd
4 bring in Dr. Thorne, the case Court appointed therapist for the
5 last seven years, and I think he could share insight on that.

6 THE COURT: Think, but you don't know?

7 MR. BLOCKER: I'm pretty certain that he could.

8 THE COURT: Pretty certain.

9 MR. BLOCKER: He could, is what I'm saying.

10 THE COURT: Part of the frustration -- frustration
11 I have here, one of the motions that's pending before me --
12 remember, I'm taking this in an informal way because I think
13 it will serve us best. I want to get to the heart of this
14 matter if I can. I expected a more comprehensive report from
15 Dr. --

16 MR. BLOCKER: Burgess?

17 THE COURT: -- Burgess, yeah. I was disappointed,
18 frankly, in the scope of her report. She expressed an opinion,
19 but it wasn't particularly helpful to me. It was very limited,
20 what she looked at, and her conclusions were very limited.

21 MR. BLOCKER: She wasn't licensed, nor did she follow--

22 MR. FELIX: If you want, we have indicated, your Honor
23 -- I apologize.

24 THE COURT: Just a moment. Go ahead.

25 MR. FELIX: We have indicated, if we can put the funds

1 together, we would get another evaluator to more fully address
2 whatever your Honor's concerns are with respect to her ability
3 to have the child, see the child on regular visitations.

4 THE COURT: Uh-huh. I think-- I think what I'm inclined
5 to -- because this file is such a procedural mess -- it really
6 is. You know, I think I've probably reviewed thousands of
7 these kinds of files, and I come in late, I take over Judges
8 have been recused, there have been changes and all kinds of
9 things that have happened.

10 MR. FELIX: Uh-huh.

11 THE COURT: There are all kinds of motions. There
12 are attorneys withdrawing. There are petitions to strike this
13 pleading, petitions to strike that pleading and all kind of
14 stuff going on, it's really complex to try to figure out what's
15 going on in this case. So what I want to do is dial it back to
16 the basics.

17 What we've got is a 12, soon to be 13-year-old young
18 man. His dad has sole legal and physical custody right now.
19 Temporary, permanent, whatever, that's what he has. Mom has
20 statutory visitation without supervision. That has been in
21 place since I ordered that about a year ago.

22 MR. FELIX: Uh-huh.

23 THE COURT: Okay, I think I'm inclined, as far as I'm
24 concerned, to treat that as a permanent state of affairs right
25 now.

1 MR. FELIX: Okay.

2 THE COURT: Now, if either side wants to petition to
3 change things, then I'm going to require a renewed petition
4 to modify. We will litigate that in the normal and ordinary
5 course. I'm going to require -- I'm going to put a deadline on
6 it, but I think that's just the way -- that's what I'm inclined
7 to do. Mr. Blocker.

8 MR. BLOCKER: Yes, I would like to express on the record
9 that I strenuously object with that for the following --

10 THE COURT: That's fine.

11 MR. BLOCKER: -- for the following reasons.

12 THE COURT: Overruled. That's what I'm doing.

13 MR. BLOCKER: Okay, may I state the law regarding this?

14 THE COURT: No, I'm familiar with the law. That's my
15 ruling.

16 MR. BLOCKER: Hogue vs. Hogue, you're familiar with
17 that?

18 THE COURT: Mr. Blocker, that's my ruling. I have wide
19 discretion in these matters, and I act from what I perceive to
20 be the best interest of the child.

21 MR. BLOCKER: But the law says that we can't --

22 THE COURT: Mr. Blocker, I don't intend to argue with
23 you. That's my ruling.

24 MR. FELIX: On the motion to withdraw, your Honor, I --
25 we can put that in abeyance. I don't mind staying in place as

1 long as it takes to try to get things settled down. It seems
2 like over the last year it's gone really well.

3 THE COURT: Well, here's where we were. I was going to
4 address that next. I've kind of kept you in here with -- you
5 moved to withdraw and I made you stay, because I had matters
6 that were pending. I recognize that that's a difficulty and a
7 hardship. You don't do this for free. This is -- this is what
8 you do for a livelihood.

9 My intent was to treat the ruling I just announced as
10 an order of this Court, and I would have asked -- I would ask
11 you to reduce that to a written order. At that point nothing's
12 pending.

13 MR. FELIX: Thank you, your Honor.

14 THE COURT: So if you want to with --

15 MR. FELIX: I guess I'm indicating I -- it's been so
16 much better over the last year. I think it's been great. I
17 think having me in the situation somehow (inaudible) things.

18 THE COURT: I don't know. Mr. Blocker, I can tell by
19 his body language he's unhappy with what I'm doing, but that's
20 life. If he wants to petition to modify at this point and
21 change visitation and restrict her parent time from where
22 it is right now, you can do that; and we'll treat that as a
23 petition to modify.

24 I will do whatever discovery is reasonable and appro-
25 priate proportionate to that, and we'll schedule for a hearing

1 as responsibly and quickly as I can. But I think trying to
2 wade through the complexity of all of the various pleadings
3 and counter pleadings and motions to strike is not productive
4 in this case and it's distracting the Court from the best
5 interest of the child.

6 MR. BLOCKER: Okay, I would like you to explain on
7 the record how we are jumping to modification without first
8 doing the first step of addressing substantial change in
9 circumstances and the circumstances that got her into the
10 situation. That has not happened. So I'm not sure how we
11 get to best interest when we have not addressed --

12 THE COURT: Well, I'm sorry that you don't understand
13 what I've ruled and the basis of my jurisdiction --

14 MR. BLOCKER: I understand what you've ruled.

15 THE COURT: Mr. Blocker, I'm sorry that you don't get
16 it. I've made my ruling. I have earlier indicated I would
17 treat the petition to modify -- or the order to show cause as
18 a petition to modify. I think there's satisfac -- satisfactory
19 evidence in this file to demonstrate that what I'm ruling is in
20 the best interest of the child. That's my order.

21 Mr. Felix, if you'll prepare an appropriate order,
22 that's where we stand.

23 MR. FELIX: Thank you very much.

24 THE COURT: Thank you. We'll be in recess.

25 (Hearing concluded)

REPORTER'S CERTIFICATE

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, Wendy Haws, a Notary Public in and for the State of Utah, do hereby certify:

That this proceeding was transcribed under my direction from the transmitter records made of these proceedings.

That I have been authorized by Beverly Lowe to prepare said transcript, as an independent contractor working under her license as a certified court reporter appropriately authorized under Utah statutes.

That this transcript is full, true, correct, and contains all of the evidence and all matters to which the same related which were audible through said recording.

I further certify that I am not interested in the outcome thereof.

That certain parties were not identified in the record, and therefore, the name associated with the statement may not be the correct name as to the speaker.

WITNESS MY HAND AND SEAL this 15th day of September 2015.

My commission expires:
January 12, 2016

Wendy Haws, CCT
NOTARY PUBLIC
Residing in Utah County

Signed: _____
Beverly Lowe, CCR/CCT

IN THE FOURTH JUDICIAL DISTRICT COURT
OF UTAH COUNTY, STATE OF UTAH

KIRSTEEN DIDI BLOCKER,)	
)	*** PRIVATE ***
Petitioner,)	
)	
vs.)	Case No. 024402553
)	
MICHAEL PHILLIP BLOCKER,)	
)	
Respondent.)	

Status Conference
Electronically Recorded on
August 1, 2014

BEFORE: THE HONORABLE JAMES R. TAYLOR
Fourth District Court Judge

APPEARANCES

For the Petitioner: Wesley D. Felix
MITCHELL, BARLOW & MANSFIELD
Boston Building
9 Exchange Place, Suite 600
Salt Lake City, Utah 84111
Telephone: (801) 998-8888

For the Respondent: Michael Phillip Blocker
(Appearing pro se)
1456 North 350 East
Orem, Utah 84057

Transcribed by: Wendy Haws, CCT

1771 South California Avenue
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1 THE COURT: Well, maybe we ought to let her be cross
2 examined.

3 MR. FELIX: She's here and available, if that's what
4 you'd like, your Honor. Dr. Burgess.

5 THE COURT: Thank you. Come on up.

6 COURT CLERK: You do solemnly swear the testimony you
7 are about to give in the case now pending before this Court
8 shall be the truth, the whole truth, and nothing but the truth,
9 so help you God?

10 THE WITNESS: I do.

11 THE COURT: Thank you. Please have a seat. Counsel,
12 I'm going to have you take her first, if you'll lay foundation
13 for the report.

14 MR. FELIX: Yes, your Honor.

15 THE COURT: Then I'll let Mr. Blocker.

16 MR. BLOCKER: Your Honor.

17 THE COURT: Yes.

18 MR. BLOCKER: Given that this is a status conference
19 and I wasn't anticipating that we would have witnesses.

20 THE COURT: Well, you filed a motion.

21 MR. BLOCKER: I'm about to file a motion, yes, but I
22 thought we'd sche -- this was a scheduling that we'd schedule a
23 hearing to address the entire valuation, not have my witnesses
24 here to rebut. I think it's very important that we have --

25 THE COURT: Well, we can go that way if you want.

1 Although this is an expert that's been appointed by the Court
2 after -- by you were given an opportunity to provide a counter
3 expert, didn't. I made the best judgment I could as to which
4 expert we should appoint, and I appointed an expert, and I have
5 her recommendation.

6 MR. BLOCKER: Well, based on --

7 THE COURT: You don't want to cross examine at this
8 time?

9 MR. BLOCKER: I would not like to have a hearing at
10 this time on this matter given I don't have rebuttal witnesses
11 and in the Court order I wasn't directed to --

12 THE COURT: Well, that's fair. That's fair. Thank
13 you. We're going to let you step down. Well, here's what
14 I'm going to do. I'm going to -- based on the report that I
15 do have, which is the status of the case right now, I think
16 Counsel's motion is well taken.

17 So I'm going to strike the requirement for supervised
18 visitation at this time. I will set the matter for hearing
19 to allow further testimony. We'll have the expert come and
20 you can provide other additional supportive evidence and other
21 additional counter evidence as you wish. How long do you think
22 it will take to conduct that hearing?

23 MR. BLOCKER: Um --

24 THE COURT: How many witnesses do you anticipate?

25 MR. BLOCKER: -- I anticipate approximately three

1 witnesses.

2 THE COURT: Okay, do you anticipate anyone other than

3 perhaps your client and the expert?

4 MR. FELIX: No, that would be sufficient, your Honor.

5 THE COURT: Okay, I think I have a date, probably do it

6 then. Sherry?

7 COURT CLERK: How much time do they need, Judge?

8 THE COURT: Half a day. When do we have a half a day?

9 COURT CLERK: August 25th, 1:30.

10 UNIDENTIFIED SPEAKER: Judge, I tried to contact the

11 people he told me to and I didn't get --

12 MR. FELIX: We don't need to --

13 THE COURT: No, no, no, that's okay. We'll hear about

14 the --

15 MR. FELIX: I've got a trial in California starting

16 August 25th and going for a month, so --

17 THE COURT: Okay.

18 COURT CLERK: September 9th, 9 o'clock.

19 THE COURT: Well, your trial goes for a month?

20 MR. FELIX: Three weeks to four weeks, your Honor, yes.

21 THE COURT: So we're going to look at October.

22 COURT CLERK: October. October 14th, 9 o'clock.

23 MR. FELIX: That's okay.

24 THE COURT: Open?

25 MR. BLOCKER: That's open.

1 THE COURT: While she's here, is that a day that will
2 work? Okay. All right, 9 o'clock on the 14th. In the meantime
3 the order of the Court is that the visitation will -- may take
4 place without supervision.

5 MR. FELIX: The timing, the extent of the visitation,
6 your Honor, would that be the minimum statutory visitation?

7 THE COURT: Uh-huh, statutory visitation. I don't see
8 any reason to do anything different.

9 MR. BLOCKER: I would like to object to that, although
10 I know --

11 THE COURT: Okay, I appreciate your objection, and I'll
12 hear that at the time of the --

13 MR. BLOCKER: I thought this was a status conference,
14 not a conference where we would make an order.

15 THE COURT: I don't have a basis to continue. Based
16 on the status of the file, I don't have a basis to continue
17 the supervision order. If you'll prepare an appropriate order
18 we'll see you here in October.

19 MR. FELIX: Yes, your Honor. Thank you.

20 THE COURT: Thank you. You know, just to be clear, so
21 nobody is surprised, let's have you each disclose a complete
22 list of the witnesses you intend to call in October. Any reason
23 you can't do that three weeks before the hearing? Include any
24 additional exhibits that you intended to attach so that both
25 sides have notice.

1 MR. FELIX: So an exhibit list and a --
2 THE COURT: And a witness list, uh-huh.
3 MR. FELIX: Thank you, your Honor. Yes.
4 THE COURT: Thank you.
5 (Hearing concluded)

REPORTER'S CERTIFICATE

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, Wendy Haws, a Notary Public in and for the State of Utah, do hereby certify:

That this proceeding was transcribed under my direction from the transmitter records made of these proceedings.

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I further certify that I am not interested in the outcome thereof.

That certain parties were not identified in the record, and therefore, the name associated with the statement may not be the correct name as to the speaker.

WITNESS MY HAND AND SEAL this 15th day of September 2015.

My commission expires:
January 12, 2016

Wendy Haws, CCT
NOTARY PUBLIC
Residing in Utah County

Signed: _____
Beverly Lowe, CCR/CCT

FILED
AUG 25 2014
4TH DISTRICT
STATE OF UTAH
UTAH COUNTY

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

Kirsteen Blocker nka Kirsteen Morkel, :

Petitioner : Minute Entry Regarding Order for
Hearing of August 1, 2014 and Motion
Of Counsel to Withdraw.

vs. : Date: August 22, 2014

Michael P. Blocker, : Case Number: 024402553

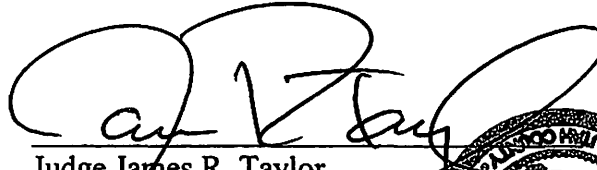
Respondent : Division VII: Judge James R. Taylor


This matter was before the Court on August 1, 2014. The Court received the written report of the custody evaluator appointed by the Court at the request of the parties. An evidentiary hearing was scheduled to allow further examination of the evaluator through examination and cross examination. The Court made a temporary modification to the conditions of parent time and ordered counsel for the Petitioner to prepare an appropriate order. An order has been prepared. Mr. Blocker has objected to the form of the order and submitted a competing order. The Court has reviewed both orders and is satisfied that the order proposed by the petitioner more accurately reflects the intent of the Court on August 1. The Court will, therefore, electronically sign the proposed order submitted by the Petitioner.

The Court also notes, during a review of the file, that counsel for the Petitioner has moved for leave to withdraw from this case because he feels he can no longer represent the Petitioner on a *pro bono* basis. The court is sympathetic to that dilemma. However, this has

been an unusually stressful, high conflict action. An evidentiary hearing is presently scheduled for October 14, 2014 which could dramatically affect the relationship of the parties to each other and to their child. If Mr. Felix is allowed to withdraw at this time it may be difficult for the Petitioner to locate appropriate substitute counsel to be prepared to continue with the case at that time. The motion to withdraw is respectfully denied although the motion may be renewed if substitute counsel for the Petitioner enters an appearance.

Dated this 22nd day of August, 2014


Judge James R. Taylor
Fourth Judicial District Court



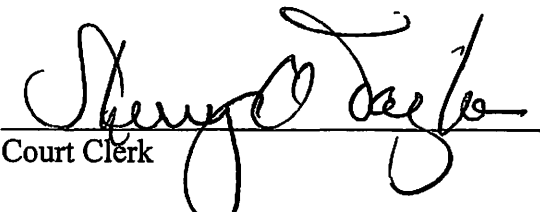
A certificate of mailing is on the following page.

Copies of this Order distributed to:

Counsel for the Plaintiff: wfelix@mbmlawyers.com

Defendant (self represented): Michael P. Blocker

Distributed this 15 day of Aug, 2011, as noted above.


Court Clerk



Wesley D. Felix (6539)
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Facsimile: (801) 998-8077
Email: wfelix@mbmlawyers.com

Attorney for Petitioner

**IN THE FOURTH DISTRICT COURT IN AND FOR
UTAH COUNTY, STATE OF UTAH**

KIRSTEEN BLOCKER nka
KIRSTEEN MORKEL

Petitioner,
v.

MICHAEL P. BLOCKER,

Respondent.

**(PROPOSED) ORDER TEMPORARILY
MODIFYING CUSTODY ORDER**

Case No.: 024402553

Judge: James R. Taylor

A hearing was held on August 1, 2014. Petitioner was present, represented by counsel, Wesley D. Felix. Respondent was present and appeared *pro se*. Based upon the evidence presented at the modification hearing held on April 16, 2014, and the report submitted by the court appointed expert Dr. Victoria Burgess, who appeared and was available to provide testimony, THE COURT, having reviewed Dr. Burgess's report, and relevant matters in the file, and otherwise being fully informed in this matter, and for good cause appearing,

IT IS HEREBY ORDERED as follows:

1. Petitioner's right to visitation, consistent with the statutory minimums established at Utah Code Ann. § 30-3-35, is to be continued, on a temporary basis, without supervision. No supervision is to be required for exchanges or during the exercise of parent time.
2. Respondent, having declined to cross-examine Dr. Burgess, will be granted the opportunity to do so at a hearing to be held on October 14, 2014 at 9:00 a.m. Three weeks before the hearing, each side shall submit exhibit lists and witness lists.

*****EXECUTED AND ENTERED BY THE COURT AS INDICATED BY THE
DATE AND SEAL AT THE TOP OF THE PAGE*****

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August, 2014, I caused a true and correct copy of the foregoing **(PROPOSED) ORDER TEMPORARILY MODIFYING CUSTODY ORDER** to be sent via first-class mail, U.S. postage prepaid, to:

Michael P. Blocker
1456 N. 350 E.
Orem, UT 84057

/s/ Jennifer Latzke

B.2 / 0 by 56-60

FILED

FEB 22 2010
4TH DISTRICT
STATE OF UTAH
UTAH COUNTY
ga

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

KIRSTEEN BLOCKER, Petitioner, vs. MICHAEL P. BLOCKER, Respondent.	FINDINGS OF FACT, ORDER, AND JUDGMENT Civil No.: 024402553 Judge: Lynn W. Davis
---	--

This matter came for a three-day trial before the Honorable Lynn W. Davis on the twenty-fourth, twenty-fifth, and twenty-seventh of August 2009. Respondent was present, represented by counsel, Ron D. Wilkinson and Kristin Gerdy. Petitioner was also present, appearing *pro se*. The minor child was represented by his Guardian ad Litem, Kelly Peterson. After hearing the testimony of witnesses and argument from both parties and the Guardian ad Litem and carefully considering the evidence and arguments provided by all parties and for good cause appearing, the Court finds and orders as follows:

Background

1. Historically, this has been a very high-conflict and acrimonious case that has been ongoing since 2002; the court has at least twelve volumes to its file.
2. The ongoing nature of litigation in this case is not in the best interest of the parties nor, most importantly, in the best interest of their child.

3. The Court finds that Dr. Featherstone's observations six years ago (2003) are not only applicable in the current circumstances but continue to plague the relationships involved in this case.
4. The Court has engaged, appointed, or become aware of at numerous professionals in this case including clinical psychologists, licensed clinical social workers, mediators, and special masters, including Dr. Darin Featherstone; Dr. Jon Skidmore; Dr. Jay Jensen; Dr. Lois Dettenmaier; Liz Dalton, Esq.; Dr. Douglas Goldsmith; Anna Trupp, LCSW; Dr. Pam Wilkerson; Val Cox; Dr. Kirk Thorn; Dr. Matthew Davies, and Amanda Bollinger.
5. Despite the efforts of these and other professionals, Kirsteen Morkel has a history of not working with, not paying, or not establishing appropriate professional relationships with therapists and other professionals. The Court is concerned about this history and the impact on the parties' minor child.
6. The Court takes judicial notice of the prior hearings held before this court, as well as the court's files and records in this matter. The Court also notes that Ms. Morkel was in no manner denied the right to present evidence or testimony, including expert testimony and that Dr. Davies's testimony was previously subject to vigorous cross examination by two of her former attorneys.

Co-parenting

7. Kirsteen Morkel states specifically that she wishes to continue her custodial relationship and that primary custody ought to remain with her. Consideration of co-parenting was

declined.

8. It is a challenge to structure parenting when one parent states she cannot or will not co-parent with the other parent. In addition, the court notes that these parties are geographically isolated from each other.
9. The Court finds that Kirsteen Morkel has interfered with Mackay Blocker's relationship with his father, Michael Blocker, and with their past parent-time, but such incidents originate from her desire to operate in the best interests of her son.
10. The Court finds that Michael Blocker has welcomed any active, open, cooperating, and balanced participation of Mackay's mother.
11. The Court finds that no joint physical or legal custody of Mackay Blocker is possible.
12. Therefore, for the reasons stated throughout these findings of fact, the Court finds that it is in the best interest of Mackay Blocker to have his father, Michael Blocker, identified as his primary legal and physical caregiver, being awarded sole legal and physical custody of the parties' minor child, Mackay Blocker.

Custody Evaluation

13. Most recently, the parties stipulated to a custody evaluation by Dr. Matthew Davies.
14. The Court finds Dr. Davies to be credible and his evaluation and recommendations to be thorough, including his recommendation to temporarily change custody of Mackay Blocker from his mother to his father in October 2008.
15. It is the opinion of the Court that Dr. Davies has very carefully followed the guidelines in

Utah Rule of Judicial Administration 4-903 while completing his report.

16. Dr. Davies included an “enmeshment theory” in his custody evaluation.
17. The Court finds that although enmeshment is not a diagnosable condition and although there may be other conditions involved in this case including, but not limited to, Pervasive Developmental Disorder-Not Otherwise Specified (PDD-NOS), the concerns set forth in Dr. Davies’s report, including enmeshment, are serious.
18. The Court awards sole legal and physical custody of the parties’ minor child, Mackay Blocker, to Respondent, Michael Blocker. In doing so, the Court adopts the findings in Dr. Davies’s report, in particular those found within his “Summary” section and within his examination of the Rule 4-903 factors. But the Court’s reliance is not exclusive. For example, the Court notes that no summary finding addresses the complexities and interrelationship between enmeshment and Pervasive Developmental Disorder - Not Otherwise Specified (PDD-NOS).

Mackay Blocker’s Parent-Time With His Mother

19. The Court finds that Kirsteen Morkel does not have the financial ability to continue paying for supervised parent-time.
20. It is the recommendation of both the court-appointed custody evaluator, Dr. Davies, and the child’s therapist, Dr. Thorn, that Kirsteen Morkel’s parent-time continue to be supervised until such time that she demonstrates that she has changed her mind set with regard to her own parenting abilities and Michael Blocker’s relationship with the child.

21. The Court is concerned that, at this time, an exclusively supervised recommendation is not practical due to finances and would, therefore, interfere with her relationship with her son, Mackay Blocker.
22. Therefore, the court shall permit Kirsteen Morkel unsupervised parent-time consistent with Utah Code Ann. § 30-3-35, upon verification of her participation in individual therapy, joint therapy with Mackay and Dr. Thorn, and her retention of a Special Master as set forth herein.
23. It is in the best interests of Mackay to continue therapy with Dr. Thorn because of his genuine and practical approach and efforts and his history in Mackay's therapy.
24. All pre- and post-visit exchanges will occur at the American Fork ACAFS facility.
25. The Court asked Kirsteen Morkel on the record if she understood the conditions for her parent-time (i.e. verification of her participation in individual therapy, verification of her participation in joint therapy with Mackay and Dr. Kirk Thorn, and verification of the retention of a Special Master).
26. In open court and in the presence of all in attendance, Kirsteen Morkel affirmed that she understood the court's conditions.
27. The Court recognizes that awarding Kirsteen Morkel statutory parent-time is an experiment as she has been unable to cooperate with at least twelve (12) past professionals, but the Court finds that it is in Mackay Blocker's best interest to give her

one more chance. The Court invited her to cooperate with her therapist, Dr. Thorne, the court-appointed Special Master, her individual therapist, etc, as it is essential that she do so. Cooperation is in the best interests of Mackay Blocker.

Contempt Allegations

28. There have been repeated claims and allegations that Ms. Morkel has repeatedly violated the orders of the Court, including interfering with Mr. Blocker's parent-time, failing to properly cooperate with the child's therapists (both Ms. Trupp and Dr. Thorne), failing to properly cooperate with the custody evaluator (including timely payment of fees), failing to properly cooperate with other professionals, failing to properly cooperate with the child's education assessment, failing to properly cooperate with exchanges, and failing to meet her financial obligations.
29. Nonetheless, the Court declines to find Kirsteen Morkel in contempt at this time.
30. However, if she fails to comply with any order herein, the Court may reconsider this ruling at a later date.

Kirsteen Morkel's Finances

31. The Court finds that, at this time, Kirsteen Morkel does not have the financial ability to pay attorney fees.
32. The Court finds that Kirsteen Morkel has an inherent and ongoing obligation to financially support her son, Mackay, and she was not absolved of that obligation during October 2008-August 2009 when Mackay was in his father's custody.

33. The Court imputes minimum wage to Kirsteen Morkel for purposes of child support.

Mackay's Therapy

34. Mackay is to continue in therapy with Dr. Kirk Thorn.
35. Therapy with Dr. Thorn will become joint including both Mackay Blocker and his mother, Kirsteen Morkel.
36. This therapy order will not be changed without further court order or by recommendation of the Special Master assigned to this case.
37. The Court orders that Kirsteen Morkel actively participate and cooperate with Dr. Thorn in all aspects of therapy.

Kirsteen Morkel's Individual Therapy

38. The Court orders that Kirsteen Morkel shall actively engage in separate, individual therapy with a therapist of her choice.
39. She shall follow the treatment recommendations of the therapist.
40. The purposes of the therapy and the goals of the therapy shall be to address the needs indicated in the following reports from the third-party professionals in this case: Dr. Dettenmaier's letter of 11/26/05; Dr. Goldsmith's letter of 11/24/05; Dr. Skidmore's letter of 1/2/05; Dr. Higashi's Psychological Evaluation of 2004, Dr. Featherstone's Custody Evaluation Report of 3/28/03, and Dr. Davies's Custody Evaluation of March 2009.
41. Kirsteen Morkel's individual therapy order will not be changed without further court

order or by recommendation of the Special Master.

Anticipated Events

42. The Court is hopeful and expects that Kirsteen Morkel will make significant progress in both her parenting skills and in her relationship with Mackay and Michael Blocker.

Special Master

43. The parties shall select with Rick Jackman or Sandra Dredge as Special Master for this case.
44. If the parties cannot agree on a choice of Special Master, the Court will decide between Mr. Jackman and Ms. Dredge.
45. A standardized Special Master Order shall issue. Once said order is signed and the Special Master's full retainer has been paid by Ms. Morkel, the selected Special Master shall be considered retained.
46. The Court orders that Kirsteen Morkel will initially pay the entirety of any retainers required by the Special Master. Beyond the issue of initial retainer, each party shall pay 50% of the Special Master fees except as provided below.
47. In the event that conflicts arise the court will reserve determination of ultimate payment such that if a conflict does not have any basis, the full cost may be borne by the party bringing the claim.
48. The Special Master may address any claims of previously missed parent-time by either party.

49. The Special Master will address concerns regarding the participation of Kirsteen Morkel's parents, Neil and Isabel Morkel, in her parent-time with Mackay, as well as where her parent-time may take place. The Court emphasizes that it is imperative that Mackay retain and be afforded a nurturing relationship with Neil and Isabel Morkel.

Kirsteen Morkel's Parent-Time

50. All pre- and post-visit exchanges will occur at the American Fork ACAFS facility.
51. The parties will evenly share the costs of ACAFS's services.
52. Maternal grandparents (Neil and Isabel Morkel) shall not be at exchanges.
53. The parties will follow the recommendations of ACAFS regarding exchanges and shall cooperate with ACAFS in the scheduling of exchanges and otherwise.

Future Abuse Allegations

54. Neither party shall bring before this Court or other court, another abuse, neglect, or maltreatment allegation unless it is accompanied by a written statement by a therapist, professional supervisor, DCFS caseworker, police officer, or other third-party professional who states that they have read Dr. Dettenmaier's letter of 11/26/05; Dr. Goldsmith's letter of 11/24/05; Dr. Skidmore's letter of 1/2/05; Dr. Higashi's Psychological Evaluation of 2004, Dr. Featherstone's Custody Evaluation Report of 3/28/03, and Dr. Davies's Custody Evaluation of March 2009, and this order, and still believes that there is credible evidence that abuse, neglect, or maltreatment of the child has occurred.

Attorney Fees

55. The Court awards attorney fees to Michael Blocker for his fees in connection with his Motion to Compel and Renewed Motion to Compel.
56. The Court directs Mr. Wilkinson and Ms. Gerdy to submit an affidavit of such fees.

Guardian Ad Litem Fees

57. Because of the parties' inability to pay, the Court awards no fees to the Office of the Guardian ad Litem.

Child Support

58. The Court orders Kirsteen Morkel to pay child support, including retroactive support for October 2008 through August 2009, which includes reimbursing Michael Blocker for \$150 of support that he paid previously for the second half of October 2008, when Mackay was in his custody.
59. The Court imputes minimum wage to Kirsteen Morkel for purposes of child support.
60. Michael Blocker's income is \$4,000 per month, based on past years. However, his current income is considerably less.
61. Therefore, the support amount Kirsteen Morkel owes is \$161.00 per month.
62. The Court grants a judgment against Kirsteen Morkel in the amount of \$1,760.00 to Michael Blocker to cover ten months of unpaid support (at \$161.00 per month) and reimbursement of \$150.00 for October 2008.

Medical and Dental Costs and Other Financial Matters

63. The Court orders Kirsteen Morkel to pay \$1,187.42 to Dr. Davies to complete the balance owed for his fees.
64. The Court grants a judgment against Kirsteen Morkel to Michael Blocker for \$1,525.99 to reimburse him for fees he paid to Dr. Davies for which she was responsible.
65. The Court orders Kirsteen Morkel to pay one-half of Mackay Blocker's medical and dental insurance and any uncovered expenses..
66. The Court grants a judgment against Kirsteen Morkel to Michael Blocker to reimburse him for any unpaid medical and dental expenses after the amount of such expenses is provided by Michael Blocker.

Mackay Blocker's Passport

67. The Court orders Kirsteen Morkel's former counsel Wendy Lems to submit Mackay Blocker's passport to the Court within ten (10) days of August 27, 2009.
68. The Court will hold the passport until such time a motion is made for its release.

Tax Dependent

69. The Court orders that Michael Blocker may hereafter claim Mackay Blocker as a dependent on his taxes each year, unless otherwise agreed by Petitioner and Respondent.

Provisions from Previous Orders that Shall Continue as Orders

70. The Court's order incorporates the following provisions of earlier orders of this court:
71. The parties shall only communicate via text message, email, ACAFS, or mail for the

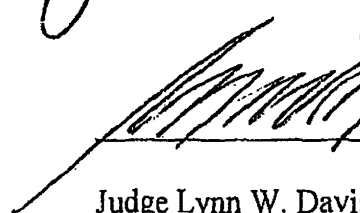
limited purpose of arranging parent-time and addressing child-related issues. All communication shall be civil. The child shall not be used as a messenger between the parties. Other than as indicated herein, the parties shall have no direct or indirect contact with one another.

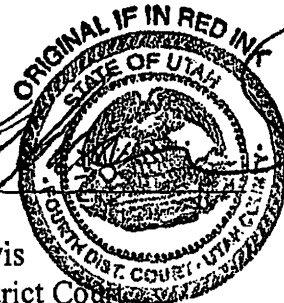
72. Maternal grandparents shall not be at exchanges.
73. No one shall be allowed to discuss with the child or otherwise receive, solicit, or encourage non-spontaneous disclosures regarding the abuse, neglect, maltreatment or any prior bad acts allegations except law enforcement, the Guardian ad Litem, a professional supervising agency, a therapist for purposes of therapy (as opposed to forensic purposes), or a licensed, trained professional in the course of a forensic investigation or evaluation, a Special Master or the Division of Child and Family Services.
74. The parties shall refrain from making derogatory or disparaging comments about or to the other parent, or allow any other person, when within the hearing of the minor child, to do so.
75. The parties shall not argue with each other of their paramours within the hearing or conscious presence of the parties' minor child or allow any other person to do so.
76. The parties shall not discuss any aspect of these proceedings, any proceeding where the child is the subject of the litigation, or any criminal proceeding to which the other parent is a party, in the presence or hearing of the child, or allow any third person to do so,

except as set forth above.

77. The parties will not question, interrogate, or otherwise "pump" the child for information regarding what occurs when the child is with the other parent, or allow any other person to do so, except as set forth above.
78. The parties will in no way conduct themselves in a way that would tend to diminish the love of the child for the other parent, or allow any other person to do so.
79. The parties shall not encourage the child to take sides or develop a parental preference, or allow any other person to do so. The parties will not in any way punish the child for having or appearing to have a parental preference, or allow any other person to do so.
80. Parties will follow the recommendations of the professional supervising agency regarding exchanges.

Dated this 22 day of February, 2010.


Judge Lynn W. Davis
Fourth Judicial District Court



A certificate of mailing is on the following page.

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 024402553 by the method and on the date specified.

MAIL: RONALD D WILKINSON 815 E 800 S OREM, UT 84097

MAIL: KIRSTEEN MORKEL 2272 GAMBEL OAK DR SANDY UT 84092

Date: 2/22/10

Julie Allan
Deputy Court Clerk