

DECLARATION OF ROBIN ALAN THICKE

I, ROBIN ALAN THICKE, hereby declare as follows:

1. I am the Respondent in this proceeding. I have personal knowledge of the facts set forth in this declaration, except as to those facts known to me on information and belief, and if called as a witness, I could and would competently testify to the within facts. I submit this declaration in Opposition to Petitioner's *ex parte* application for Orders re visitation and custody related orders.

2. On February 4, 2015, Petitioner ("Paula") and I executed a Stipulated Judgment which was entered on March 17, 2015. Pursuant to our Stipulated Judgment, we share joint legal custody of our son, Julian, born [REDACTED]. Our physical custody agreement is that I have Julian overnight every Thursday, Friday, and Saturday, and Paula has him overnight every Sunday, Monday, Tuesday, and Wednesday. Based on this agreement, my timeshare with Julian is approximately 43%.

3. Anytime Julian is in my custody, I am physically with him. Although I do use nannies to assist me at times, such as sometimes picking him up from school, I am physically with Julian during my periods of physical custody. I am very actively involved in Julian's life, including, but not limited to, cooking, bathing, reading, doing homework, driving him to and picking him up from school, and putting him to bed. I am also the assistant coach for Julian's baseball, soccer, and basketball teams, the latter of which practices at my home.

4. It is my understanding, based on the notice that my attorney received from Paula's attorney, Paula is seeking to reduce my physical custodial periods to monitored daytime visits with no overnights. I do not agree to such orders as they are not warranted.

5. Paula is also apparently seeking mutual orders related to the use of drugs, alcohol, and corporal punishment. Although I believe that such orders are not warranted, I do not object to such mutual orders pending a hearing or other resolution.

6. Paragraph 27 of our March 17, 2015 Stipulated Judgment states,
The court retains jurisdiction to resolve any disputes arising under this Stipulated Further Judgment and to enforce any executory provisions of this Stipulated Further Judgment. Pursuant to the

1 parties' agreement, they shall return to mediation for two (2) sessions
2 with a mutually chosen mediator prior to either party commencing
3 any court proceeding in connection with this Stipulated Further
4 Judgment, except in case of emergency.

5 I would welcome the opportunity to mediate, and have requested mediation in the past. I understand
6 a request to mediate has been made by my counsel, but, instead, Paula noticed this Ex Parte
7 application.

8 7. Paula and I have not had any substantive issues (other than scheduling) regarding
9 Julian until her current allegation. There has been absolutely no court involvement in this case until
10 now. It is my understanding that Paula is accusing me of "excessive spanking." I am told that Julian
11 reported to the school that I spanked him and that the school made a report to the Department of
12 Children and Family Services. (Discussed in greater detail below).

13 8. It is my belief that Paula holds residual anger toward me because I and my family
14 would not permit her or her family to attend the funeral of my father on December 20, 2016. Paula
15 did not have a positive relationship with my father and often made negative comments to me about
16 my father. As such, she was not welcome at his funeral. It is my belief that Paula only wanted to
17 attend because it would have resulted in additional public exposure for her.

18 9. Julian was with me from Christmas Day until December 31, 2016. He was supposed
19 to be with Paula from December 31, 2016 through January 5, 2017. I have not been in Julian's
20 physical presence since December 31, 2016.

21 10. On January 2, 2017, I had Facetime session with Julian. This was a typical Facetime
22 session and there were no issues.

23 11. January 3, 2017 was Julian's first day back at school. After school that day, I had a
24 Facetime session with Julian. It was a typical conversation that lasted approximately four minutes.
25 Paula remained close by during my conversation with Julian, as she has done consistently for some
26 time, despite my repeated requests that Julian and I be permitted to speak privately.

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1 12. Thursday, January 5, 2017 was my scheduled physical custody time with Julian and
2 I expected to pick him up from school. Approximately ten minutes before the pick-up, I received
3 a text message from Paula and the following exchange occurred:

4 Paula: I picked Julian up from school. I'll call you in 5 min

5 Me: OK. Can u bring him here for basketball lesson?

6 Paula: No

7 A copy of the text message exchange is attached hereto as Exhibit "A" and incorporated herein by
8 this reference.

9 13. Approximately ten minutes after I received her text message, Paula called me and said
10 words to the following affect:

11 On Tuesday, Julian said at school that you spanked him. And today
12 he said it again at school and they have called child services. Julian
13 is scared of you.

14 14. I was shocked and did not know what to say, so I hung up the phone. Although Julian
15 allegedly made this report to the school on January 3, 2017, I note that I had not been in Julian's
16 physical presence since December 31, 2016.

17 15. The following day, January 6, 2017, I contacted the school and left a message for the
18 principal, Mike Schmidt, attempting to find out what occurred and why I was not contacted by them.
19 The following day, I received a message from Mr. Schmidt telling me that he was calling me at
20 Paula's request and he explained why the school made a report to DCFS.

21 16. I have always used progressive discipline with Julian; primarily the use of "time
22 outs." On a very rare occasion, and only as a last resort, I will use light spanking, but it is consistent
23 with the law - open hand on the butt. This is the type of discipline to which Paula and I agreed
24 during our marriage. I have never exceeded age-appropriate discipline, and thus never been an issue
25 , nor has it been raised by Paula previously.

26 17. Paula refused to let me see or speak with Julian for four days until January 9, 2017.
27 I attempted to call or Facetime Julian each morning and evening during these four days, but Paula
28 refused to answer the phone each and every time. I also sent text messages to Paula asking to speak

1 by phone or Facetime with Julian. These were ignored. As a result, Julian and I, who typically have
2 contact nearly every single day, did not speak from after our Facetime on January 3 until we finally
3 spoke again on January 9, 2017, as described below.

4 18. On January 9, 2017, Paula finally called me so that I could speak to Julian. At
5 approximately 1:35 pm, I received a missed Facetime from Paula's brother's Ipad. A few minutes
6 later, at approximately 1:41 pm, I called Paula's house and she answered the phone. I heard Paula
7 say, "here, just talk to your father." Julian then picked up the phone and, without prompting, said,
8 "Don't worry, I promise I won't tell him anything. Hi Daddy!" We spoke for a couple of minutes
9 during which time I told him that I loved him, everything will be ok, he had done nothing wrong, and
10 that I was excited to see him later in the week. We both told each other "I love you," and hung up
11 the phone.

12 19. Almost immediately after we hung up, Julian called me back. Without any prompting
13 from me, Julian said, "Daddy, I just wanted to tell you one thing. Can you say you're sorry." I asked
14 him what it was he wanted me to say "sorry" for. Julian then said, "For what mom told you." Paula
15 then said loud enough for me to hear, "I didn't tell him anything." Julian then went quiet. I told him
16 that we would fix this later in the week and said goodbye.

17 20. As of the time I signed this declaration, I have not been permitted any further contact
18 with Julian since the two calls in the early afternoon on January 9, 2017.

19 21. Julian and I are scheduled to meet with the social worker from DCFS that is
20 investigating this matter on January 12, 2017 at 1 pm. I understand that the social worker has already
21 met with Julian, Paula, and employees from Julian's school, and that DCFS has not sought to remove
22 Julian from my care, placed any restrictions on my custody, nor instructed Paula to withhold Julian
23 from me. I have certainly not heard from anyone in this regard at any time.

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22. I am requesting that Paula's Ex Parte request be denied and that my regular physical custody time be immediately reinstated. I am further requesting that Paula be ordered to not interfere with my regular physical custody as set forth in our March 17, 2015 Stipulated Judgment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 11, 2017 at Malibu, California.


ROBIN ALAN THICKE

DECLARATION OF LARRY A. GINSBERG

I, LARRY A. GINSBERG, declare as follows:

1. I am an attorney at law duly licensed to practice before all courts in the State of California and am a partner in the law firm of Harris • Ginsberg LLP, attorneys of record for Respondent herein. I have firsthand, personal knowledge of the facts contained herein and, if called as a witness, I could and would competently testify thereto under oath.

2. I submit this declaration in support of Respondent, Robin Alan Thicke's ("Respondent"), Opposition to Petitioner, Paula M. Patton's ("Petitioner"), *ex parte* application for miscellaneous "emergency" custody orders.

SUMMARY

3. This *ex parte* application is a bizarre development in this matter given that (1) there is no evidence of an emergency, (2) counsel were in discussions regarding resolution of pending, and only very recent, issues and (3) Judgment in this matter expressly requires the parties to attend mediation for two session prior to initiating legal proceedings. Respondent has requested that the parties do so. Petitioner has refused.

4. Petitioner is withholding the minor child, Julian, (DOB: [REDACTED]) from Respondent and requesting a laundry list of custody orders – many of which could in no way be considered "emergency" orders – apparently based solely on the fact that Julian's school made a report to DCFS concerning Respondent and regarding some "spanking" of Julian.

5. As set forth in the Declaration of Angela Pierce di Dinato, Esq ("di Dinato Decl."), Respondent's dependency counsel, DCFS has interviewed Petitioner, Julian and school employees from Julian's school, including the individual that made the report to DCFS, and have not issued any orders limiting or restricting custody of or contact between Respondent and Julian in any way.

See di Dinato Decl.

6. The parties' Judgment, entered March 17, 2015, provides that the parties "shall return to mediation for two (2) sessions with a mutually chosen mediator prior to either party commencing any court proceeding in connection with this Stipulated Further Judgment, except in the case of

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1 emergency." [Emphasis added]. Respondent does not have knowledge of any claimed "emergency"
2 or of any evidence in support thereof.

3 BACKGROUND

4 7. Our firm was retained in this matter last week. We immediately began work to
5 address Petitioner's refusal to allow Respondent to exercise his court ordered custodial time as is set
6 forth in the parties' Judgment.

7 8. On Thursday, January 5, 2017, Petitioner told Respondent that she would not permit
8 him to exercise his custodial time because she had been informed that the Julian's school had made
9 a report to DCFS. See Declaration of Respondent filed concurrently herewith.

10 9. The following day, on Friday, January 6, 2017, I sent Petitioner (*in pro per* at the
11 time) an email informing her that she was in violation of the custody orders contained in the parties'
12 Judgment, which orders provide that Respondent is to have custodial time with Julian from
13 Thursdays to Saturdays every week. I noted that DCFS had not instituted any restrictions or
14 limitations on Respondent's custody. In closing, I requested that Petitioner allow Respondent to
15 exercise his custodial time and that she end her interference with same. A true and correct copy of
16 this email is attached hereto as **Exhibit "B"**.

17 10. The following day, January 7, 2017, I received an email from Mr. Gary Fishbein, Esq.
18 informing me that he had been retained to represent Petitioner in this matter. A true and correct copy
19 of this email is included in the email chain attached hereto as **Exhibit "C"**. Mr. Fishbein informed
20 me that Petitioner would not "turn Julian over" to Respondent. In response, I noted that there was
21 no order limiting Respondent's custodial time, and explained that Petitioner was in violation of the
22 parties' Judgment. A true and correct copy of this email is included in **Exhibit "C"**.

23 11. On Monday, January 9, 2017, Respondent's counsel with regard to the DCFS matter,
24 Ms. Angela Pierce di Dinato, Esq., emailed Petitioner's counsel (copying me) and informed him that
25 DCFS had placed no restrictions on Respondent's visitation. See di Dinato Decl; See **Exhibit "H"**.
26 Further she requested that Petitioner cease withholding Julian from Respondent and allow
27 Respondent to exercise "make up time".

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1 12. In response, Mr. Fishbein dismissed the request and stated “[p]er the judgment this
2 is my client’s custodial time. See di Dinato Decl; See **Exhibit “H”**.

3 13. I then emailed Petitioner’s counsel in a further attempt to resolve the matter and
4 request that Petitioner allow Respondent to have his custodial period and some “make up time”
5 resulting from Petitioner’s engaging in self-help in violation of the Judgment. A true and correct
6 copy of my email to Mr. Fishbein is included in the email chain attached hereto as **Exhibit “D”**.

7 14. Mr. Fishbein provided a further response wherein he claimed that, although DCFS
8 had not made any orders or findings, it would be irresponsible of Petitioner to allow Respondent his
9 custodial time pending further investigation from DCFS. A true and correct copy of this email is
10 included in **Exhibit “D”**. Mr. Fishbein stated that he would follow up after the DCFS interviews
11 scheduled for that day were completed. I thanked him, and requested that he get back to us. See *Id.*

12 15. The next day, Tuesday, January 10, 2017, Mr. Fishbein and I had a telephone
13 conference during which we discussed the newly developed custody dispute and related matters. We
14 discussed, *inter alia*, both parties’ concerns. I discussed scheduling a mediation date with Peter
15 Spelman, Esq. (The attorney who mediated the underlying Judgment) per the requirement that the
16 parties attend mediation prior to initiating legal proceedings.

17 16. I called Mr. Spelman and confirmed his availability to meet with the parties.

18 17. The next day, Wednesday January, 11, 2017, after I conferred with Respondent and
19 Ms. Di Dinato, and while I was finalizing a letter to Petitioner’s counsel concerning all pending
20 issues surrounding custody, we received *ex parte* notice with regard to this hearing. A true and
21 correct copy of the notice is attached hereto as **Exhibit “E”**.

22 18. The relief sought extends beyond that which I discussed with opposing counsel the
23 day prior, and concerns issues that are not “emergencies” (e.g. requiring Respondent to complete
24 parenting classes) and issues to which there is no disagreement (e.g. that neither party shall consume
25 illegal drugs during his/her custodial time).

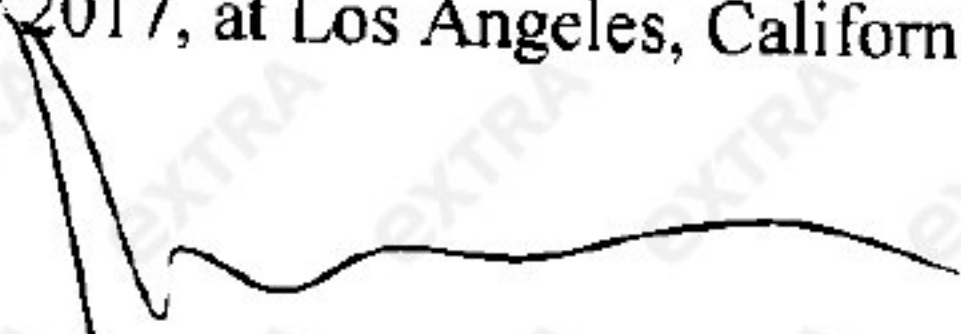
26 19. After receiving notice, I emailed Petitioner’s counsel and informed him that I was
27 surprised and disappointed by the sudden decision to abandon discussions and seek *ex parte* relief
28 rather than attempt to resolve this amicably without litigation through mediation as contemplated

1 by the parties and as required by the Judgment. A true and correct copy of this email is included in
2 the email chain attached hereto as **Exhibit "F"**.

3 20. Mr. Fishbein responded and stated that the *ex parte* was noticed because of the
4 "exigency" of the circumstances. Further, he contended that mediation was not necessary because
5 the Judgment provision requiring mediation did not apply in this instance, where Petitioner believes
6 court intervention is necessary to protect Julian's health and safety. A true and correct copy of this
7 email is included in **Exhibit "F"**. In closing, Mr. Fishbein noted that we had not responded to the
8 specific issues discussed the day prior (which issues were to be addressed in my letter but for receipt
9 of *ex parte* notice).

10 21. I explained that Petitioner's course of action had forced us to concentrate on
11 responding to the *ex parte*, and that she effectively ended discussions pending the outcome of the
12 hearing. A true and correct copy of this email is included in **Exhibit "F"**.

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14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct. Executed this 11th day of January 2017, at Los Angeles, California.

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19 LARRY A. GINSBERG
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