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FILED
Superior Court of California
County of Los Angeles

JAN 12 2017
Sharon R. Carter, Executive Officer/Clerk
By: [Signature] Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

In re the Marriage of
Petitioner: PAULA M. PATTON
and
Respondent: ROBIN ALAN THICKE

CASE NO. BD 609292

Hon. Timothy Patrick Dillon
Department 88

DECLARATION OF SHELA JACKSON
RE EX PARTE NOTICE

DATE : January 18, 2017
TIME : 8:30 a.m.
DEPT : 88

I, SHELA JACKSON, declare as follows:

I am over the age of 18 years, am employed by the law firm of Buter, Buzard, Fishbein & Royce LLP, attorneys of record for Petitioner in the above-entitled action and am the assistant to Gary Fishbein and Ali L. Fishbein. I know the following of my own knowledge and could testify competently thereto if called upon as a witness to do so.

1. On January 11, 2017, at 9:43 a.m. I telephoned the Law Offices of Harris-Ginsberg LLP, attorneys for Respondent, Robin Thicke. I spoke to Kathy Enriquez, assistant to Larry Ginsberg and advised her that our office would be appearing on an ex parte basis on Thursday, January 12, 2017, at 8:30 a.m. in Department 88 of the Los Angeles Superior Court, 111 North Hill Street, Los Angeles, California, to request the orders set forth below.

///

1 2. The orders being sought are:

2 Pending further hearing, Respondent's custodial time shall be exercised as
3 follows:

4 Every Thursday, commencing at pick up from school, or 3:00 p.m. if
5 there is no school, and continuing until 7:00 p.m.;

6 Every Friday, commencing at pick up from school, or 2:00 p.m. if there
7 is no school, and continuing until 7:00 p.m.; and

8 Every Saturday, commencing at 10:00 a.m. and continuing until 7:00
9 p.m.

10 A professional monitor shall be present during Respondent's custodial time
11 with the minor child. At no time shall the minor child be left alone with Respondent without
12 a professional monitor present. The cost of a professional monitor shall be paid by
13 Respondent.

14 Neither party shall ingest or otherwise use illegal or non-prescription drugs
15 while the minor child is in his/her custody. Neither party shall ingest or use prescription
16 drugs in excess of the prescribed amount while the minor child is in his/her custody.

17 Neither party shall consume alcohol while the minor child is in his/her custody.

18 Neither party shall use corporal punishment against the minor child for any
19 reason or under any circumstances.

20 The minor child shall forthwith be enrolled in and participate in counseling with
21 Betsy Brown Braun pursuant to Family Code §3190. Both parties shall ensure that the minor
22 child attends scheduled therapy sessions and the cost of all sessions shall be equally shared
23 by the parties.

24 Minor's counsel shall be appointed to represent the minor child pursuant to
25 Family Code § 3150 and California Rule of Court 5.240. The parties shall equally share in
26 all costs related to the minor child's appointment of counsel.

27 Respondent shall attend and complete a parenting class with either Dr. Nancy
28 Satenberg or Carol R. Hirshfield, Ph.D.

1 3. Immediately after my phone call with Ms. Enriquez, I then sent a letter via
2 facsimile, to Mr. Ginsberg with notice of our ex parte application and the orders being
3 requested.

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

6 Dated: January 11, 2017, at Los Angeles, California.

7
8 
9
10 SHELA JACKSON

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: Larry A. Ginsberg, Esq. (SBN 125556) FIRM NAME: Harris Ginsberg LLP STREET ADDRESS: [REDACTED] CITY: Los Angeles TELEPHONE NO: [REDACTED] FAX NO: [REDACTED] E-MAIL ADDRESS: [REDACTED] ATTORNEY FOR (name): ROBIN ALAN THICKE		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles JAN 12 2017 Sherri R. Carter, Executive Officer/Clerk By: [Signature] Lori Naphen, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 NORTH HILL STREET MAILING ADDRESS: SAME AS ABOVE CITY AND ZIP CODE: LOS ANGELES CA 90012 BRANCH NAME: STANLEY MOSK		
PETITIONER: PAULA M. PATTON RESPONDENT: ROBIN ALAN THICKE OTHER PARENT/PARTY:		
EX PARTE RESPONSIVE DECLARATION TO REQUEST FOR ORDER		
HEARING DATE: January 12, 2017	TIME: 8:30 a.m.	DEPARTMENT OR ROOM: 88 66
CASE NUMBER: BD 602 292		

Read Information Sheet: Responsive Declaration to Request for Order (form FL-320-INFO) for more information about this form.

1. ☐ **RESTRAINING ORDER INFORMATION**
 - a. ☐ No domestic violence restraining/protective orders are now in effect between the parties in this case.
 - b. ☐ I agree that one or more domestic violence restraining/protective orders are now in effect between the parties in this case.
2. ☒ **CHILD CUSTODY**
☒ **VISITATION (PARENTING TIME)**
 - a. ☐ I consent to the order requested for child custody (legal and physical custody).
 - b. ☐ I consent to the order requested for visitation (parenting time).
 - c. ☒ I do not consent to the order requested for ☒ child custody ☒ visitation (parenting time)
☒ but I consent to the following order: That the Court deny Petitioner's Ex Parte application and order Petitioner to not interfere with the custody orders set forth in the parties' Stipulated Further Judgment entered on March 17, 2015.
3. ☐ **CHILD SUPPORT**
 - a. I have completed and filed a current *Income and Expense Declaration* (form FL-150) or, if eligible, a current *Financial Statement (Simplified)* (form FL-155) to support my responsive declaration.
 - b. ☐ I consent to the order requested.
 - c. ☐ I consent to guideline support.
 - d. ☐ I do not consent to the order requested ☐ but I consent to the following order:
4. ☐ **SPOUSAL OR DOMESTIC PARTNER SUPPORT**
 - a. I have completed and filed a current *Income and Expense Declaration* (form FL-150) to support my responsive declaration.
 - b. ☐ I consent to the order requested.
 - c. ☐ I do not consent to the order requested ☐ but I consent to the following order:

PETITIONER: PAULA M. PATTON
 RESPONDENT: ROBIN ALAN THICKE
 OTHER PARENT/PARTY:

CASE NUMBER:

BD 602 292

5. ☐ PROPERTY CONTROL

- a. ☐ I consent to the order requested.
 b. ☐ I do not consent to the order requested ☐ but I consent to the following order:

6. ☐ ATTORNEY'S FEES AND COSTS

- a. I have completed and filed a current *Income and Expense Declaration* (form FL-150) to support my responsive declaration.
 b. I have completed and filed with this form a *Supporting Declaration for Attorney's Fees and Costs Attachment* (form FL-158) or a declaration that addresses the factors covered in that form.
 c. ☐ I consent to the order requested.
 d. ☐ I do not consent to the order requested ☐ but I consent to the following order:

7. ☐ DOMESTIC VIOLENCE ORDER

- a. ☐ I consent to the order requested.
 b. ☐ I do not consent to the order requested ☐ but I consent to the following order:

8. ☒ OTHER ORDERS REQUESTED

- a. ☐ I consent to the order requested.
 b. ☒ I do not consent to the order requested ☒ but I consent to the following order: That the Court deny Petitioner's Ex Parte application and order Petitioner to not interfere with the custody orders set forth in the parties' Stipulated Further Judgment entered on March 17, 2015.

9. ☐ TIME FOR SERVICE / TIME UNTIL HEARING

- a. ☐ I consent to the order requested.
 b. ☐ I do not consent to the order requested ☐ but I consent to the following order:

10. ☒ FACTS TO SUPPORT my responsive declaration are listed below. The facts that I write and attach to this form cannot be longer than 10 pages, unless the court gives me permission. ☐ Attachment 10.

See attached Memorandum of Points and Authorities, Declaration of Respondent, Robin Alan Thicke, Declaration of Larry A. Ginsberg, Esq., and Declaration of Angeles Pierce DiDonato, Esq.

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date: January 11, 2017

Larry A. Ginsberg
 (TYPE OR PRINT NAME)


 (SIGNATURE OF DECLARANT)

MEMORANDUM OF POINTS AND AUTHORITIES

Respondent, ROBIN ALAN THICKE ("Respondent") submits this Memorandum of Points and Authorities in support of his Opposition to Petitioner, Paula M. Patton's ("Petitioner"), Request for Order for miscellaneous "emergency" custody orders. **There is no emergency. There is no basis for the relief requested. There is no evidence that would support Petitioner's request.**

I.**INTRODUCTION**

Last week, the minor child, Julian's (DOB [REDACTED] school, made a report to DCFS concerning purported "spanking" by Respondent. After being notified of the report, on Thursday, January 5, 2017, Petitioner told Respondent that she would not allow him to exercise his visitation with Julian. DCFS has commenced an investigation and interviewed Petitioner, Julian and employees at Julian's school, including the individual that made the report. DCFS has not issued any orders limiting or restricting custody of or contact with Respondent in any way. DCFS has not completed their investigation. They are scheduled to interview Respondent in the afternoon of January 12, 2017 following this *ex parte* hearing.

After briefly discussing her concerns with Respondent through counsel, Petitioner abruptly shifted and noticed this *ex parte* application. Petitioner has no basis for her request. The allegations reported to DCFS, which Petitioner will likely iterate in her application, likely concern conduct that is expressly not considered physical harm. *See Welfare & Institutions Code section 300.* Assuming, *arguendo*, that the information Petitioner has learned second-hand is correct, there is no safety concern or danger posed to Julian.

Paragraph 27 of the parties' Stipulated Further Judgment provides that the parties are to attempt to resolve issues through not one, but two mediation sessions before initiating legal proceedings with the Court.

Petitioner has used an unsubstantiated report -- which report DCFS seems to give little credence given its inaction -- to disrupt Respondent's custodial time and withhold Julian from Respondent. She now seeks to make an end run around required mediation to obtain orders limiting Respondent's custody and other miscellaneous orders on no real notice without any evidence.

II.

THERE IS NO EMERGENCY OR BASIS WARRANTING EX PARTE RELIEF

Petitioner is not entitled to *ex parte* relief. Ex parte applications may only be granted in limited circumstances. This not one of those circumstances. California Rules of Court, Rule 5.151 subsection (b) states in pertinent part that the purpose of an ex parte/emergency order is as follows:

"(b) Purpose

The purpose of a request for emergency orders is to address matters that cannot be heard on the court's regular hearing calendar. In this type of proceeding, notice to the other party is shorter than in other proceedings. Notice to the other party can also be waived under exceptional and other circumstances as provided in these rules. The process is used to request that the court:

(1) Make orders to help prevent an immediate danger or irreparable harm to a party or to the children involved in the matter . . ."

CRC Rule 5.151 [Emphasis added.]

Furthermore, in bringing this *ex parte* application without first attempting to resolve the matters of dispute through mediation, Petitioner is in violation of the Judgment. Paragraph 27 of the Judgment 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 emergency." [Emphasis added]. ~~(See Declaration of Angela Pierce di Dinato, Esq. Filed concurrently herewith ("di Dinato Decl.")).~~

There is no emergency here. Petitioner has withheld Julian from Respondent and refused to allow him to exercise his custodial time because Julian's school made a report to DCFS. In response to a report, and at any time during an investigation, DCFS is empowered to and will intervene to ensure the health, safety and well-being of a minor child by issuing orders restricting or limiting a parent's custody. See Declaration of Angela Pierce di Dinato, Esq. Filed concurrently herewith ("di Dinato Decl."). DCFS has received the report from Julian's school and interviewed Petitioner, Julian, and school employees from the Julian's school, including the individual that made the report to DCFS, and yet, DCFS has not issued any orders limiting or restricting custody of or contact with

1 Respondent in any way. See di Dinato Decl. Thus, if there was an emergency, it would have been
2 addressed by DCFS, and DCFS has determined there is no such emergency as evidenced by their
3 inaction.

4 Moreover, many of the orders sought are unrelated to the purported emergency and are not
5 suited for *ex parte* relief. Specifically, Petitioner requests alcohol and drug consumption orders with
6 no evidentiary basis, that Julian be enrolled in counseling with a counselor of her independent
7 choosing, that minor's counsel be appointed, and that Respondent attend and complete parenting
8 classes with individuals of her choosing. These orders do not prevent an immediate harm or danger
9 (even if same were substantiated), thus, the request must be heard on a regularly noticed motion.
10 Moreover, per the Judgment, the parties must first attempt to resolve these issues through not one
11 but two mediation sessions prior to seeking relief from the court.

12 There is no evidence to support Petitioner's request. Petitioner's concerns are apparently
13 predicated on her third-hand knowledge of a report made to the school, which was then made to
14 DCFS. Neither Petitioner, nor anyone else, witnessed any conduct that would suggest that
15 Respondent has engaged in any conduct that would justify monitored visitation or any reduction in
16 his visitation. Nor is there any other evidence of any kind to substantiate Petitioner's concerns,
17 which is presumably the reason DCFS has not issued any restricting or limiting orders on
18 Respondent's custody – there is no “there there”.

19 Welfare & Institutions Code section 300 provides:

20 “serious physical harm” does not include reasonable and
21 age-appropriate spanking to the buttocks if there is no evidence of
22 serious physical injury.
23

24 Cal. Welf. & Inst. Code § 300. The legislature has thus determined that the conduct does not present
25 a danger to children. Again, irrespective of same, the parties are to attempt resolve parenting
26 disputes via mediation prior to seeking court intervention.

27 Additionally, the timing of Petitioner's request is troubling. DCFS is scheduled to interview
28 Respondent at 1:00 P.M. on Thursday, January 12, 2017 following the *ex parte* hearing. Perhaps

1 knowing that the DCFS investigation is winding down, and anticipating that it will not result in any
2 limitation of Respondent's custody, Petitioner has attempted to make an end run and obtain a ruling
3 in her favor based on speculative "danger" predicated on hearsay that has been already apparently
4 rejected by DCFS since receiving the report from Julian's school as evidenced by the lack of action
5 by that entity.

6 As the moving party, Petitioner has the burden to establish a basis for her "emergency"
7 request. In this instance, she must provide the court with a sufficient basis to justify extraordinary
8 and emergency *ex parte* relief. There is simply no evidence of any conduct that would justify
9 reducing Respondent's custodial time. Respondent and Julian enjoy a loving and warm relationship.
10 Moreover, assuming, *arguendo*, that the hearsay is true, the purported conduct does not present a
11 safety concern or danger to Julian, and thus, the parenting dispute should be resolved via mediation
12 per the parties' Judgment.


13 14 III.

15 CONCLUSION

16 For the reasons set forth herein, Respondent respectfully requests that the Court deny
17 Petitioner's *ex parte* application and make a finding that the custodial orders contained in the
18 Stipulated Further Judgment are current and controlling.

19
20 Dated: January 11, 2017

HARRIS • GINSBERG LLP

21
22
23 By: 

24 LARRY A. GINSBERG, ESQ.
25 Attorneys for Respondent
26 ROBIN ALAN THICKE
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