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Chris Daniel - District Clerk Harris County
Envelope No. 3342050
By: lonya porter
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NO. _____

IN THE MATTER OF THE MARRIAGE OF	§	IN THE DISTRICT COURT
VALERIE BUSICK MCDANIEL AND MARION E. MCDANIEL, III	§	JUDICIAL DISTRICT
AND IN THE INTEREST OF N.S.M., A CHILD	§	HARRIS COUNTY, TEXAS

2014-69980 / Court: 247

ORIGINAL PETITION FOR DIVORCE

1. Discovery Level

Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

2. Objection to Assignment of Case to Associate Judge

Petitioner objects to the assignment of this matter to an associate judge for a trial on the merits or presiding at a jury trial.

3. Parties

This suit is brought by VALERIE BUSICK MCDANIEL, Petitioner. The last three numbers of VALERIE BUSICK MCDANIEL's driver's license number are [redacted]. The last three numbers of VALERIE BUSICK MCDANIEL's Social Security number are [redacted]

MARION E. MCDANIEL, III is Respondent.

4. Domicile

Petitioner has been a domiciliary of Texas for the preceding six-month period and a resident of this county for the preceding ninety-day period.

5. Service

Process should be served on Respondent wherever he may be found.

6. ***Protective Order Statement***

No protective order under title 4 of the Texas Family Code is in effect, and no application for a protective order is pending with regard to the parties to this suit.

7. ***Dates of Marriage and Separation***

The parties were married on or about August 16, 1997 and have ceased to live together as husband and wife.

8. ***Grounds for Divorce***

The marriage has become insupportable because of discord or conflict of personalities between Petitioner and Respondent that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

Respondent has committed adultery.

9. ***Children of the Marriage***

Petitioner and Respondent are parents of the following child of this marriage who is not under the continuing jurisdiction of any other court:

Name: [redacted]

Sex: [redacted]

Birth date: [redacted]

There are no court-ordered conservatorships, court-ordered guardianships, or other court-ordered relationships affecting the child the subject of this suit.

Information required by section 154.181(b) of the Texas Family Code will be supplemented at a later date.

No property of consequence is owned or possessed by the child the subject of this suit.

Petitioner and Respondent, on final hearing, should be appointed joint managing

conservators, with all the rights and duties of a parent conservator.

Petitioner should be designated as the conservator who has the exclusive right to designate the primary residence of the child. Respondent should be ordered to make payments for the support of the child and to provide medical child support in the manner specified by the Court. Petitioner requests that the payments for the support of the child survive the death of Respondent and become the obligations of Respondent's estate.

10. Division of Community Property

Petitioner believes Petitioner and Respondent will enter into an agreement for the division of their estate. If such an agreement is made, Petitioner requests the Court to approve the agreement and divide their estate in a manner consistent with the agreement. If such an agreement is not made, Petitioner requests the Court to divide their estate in a manner that the Court deems just and right, as provided by law.

Petitioner should be awarded a disproportionate share of the parties' estate for the following reasons, including but not limited to:

a. fault in the breakup of the marriage;

b. the spouse to whom conservatorship of the child is granted;

c. wasting of community assets by the spouses;

d. attorney's fees to be paid;

e. actual fraud committed by a spouse; and

f. constructive fraud committed by a spouse.

Respondent has committed fraud on the community estate. Petitioner requests that the Court reconstitute the community estate to its full value prior to Respondent's depletion of the community estate by his fraudulent acts and divide the reconstituted community estate in a

manner that the Court deems just and right, including awarding Petitioner an appropriate share of the community estate, a money judgment, or both.

11. ***Separate Property***

Petitioner owns certain separate property that is not part of the community estate of the parties, and Petitioner requests the Court to confirm that separate property as Petitioner's separate property and estate.

12. ***Request for Temporary Restraining Order***

Petitioner requests the Court to dispense with the issuance of a bond, and Petitioner requests that Respondent be temporarily restrained immediately, without hearing, and after notice and hearing be temporarily enjoined, pending the further order of this Court, from:

1. Communicating with Petitioner in person, by telephone, or in writing in vulgar, profane, obscene, or indecent language or in a coarse or offensive manner.

2. Threatening Petitioner in person, by telephone, or in writing to take unlawful action against any person.

3. Placing one or more telephone calls, anonymously, at any unreasonable hour, in an offensive and repetitious manner, or without a legitimate purpose of communication.

4. Causing bodily injury to Petitioner or to a child of either party.

5. Threatening Petitioner or a child of either party with imminent bodily injury.

6. Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.

7. Falsifying any writing or record relating to the property of either party.

8. Misrepresenting or refusing to disclose to Petitioner or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.

9. Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.

10. Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to Petitioner.

11. Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of Petitioner or Respondent, whether personalty or realty, and whether separate or community, except as specifically authorized by order of this Court.

12. Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by order of this Court.

13. Making withdrawals from any checking or savings account in any financial institution for any purpose, except as specifically authorized by order of this Court.

14. Spending any sum of cash in Respondent's possession or subject to Respondent's control for any purpose, except as specifically authorized by order of this Court.

15. Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by order of this Court.

16. Entering any safe-deposit box in the name of or subject to the control of Petitioner or Respondent, whether individually or jointly with others.

17. Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of Petitioner or Respondent, except as specifically authorized by order of this Court.

18. Changing or in any manner altering the beneficiary designation on any life insurance on the life of Petitioner or Respondent or the parties' child.

19. Canceling, altering, failing to renew or pay premiums, or in any manner affecting the present level of coverage of any life, casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' child.

20. Opening or diverting mail addressed to Petitioner.

21. Signing or endorsing Petitioner's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to Petitioner without the personal signature of Petitioner.

22. Taking any action to terminate or limit credit or charge cards in the name of Petitioner.

23. Discontinuing or reducing the withholding for federal income taxes on Respondent's wages or salary while this case is pending.

24. Destroying, disposing of, or altering any financial records of the parties, including but not limited to records from financial institutions (including canceled checks and deposit slips), all records of credit purchases or cash advances, tax returns, and financial statements.

25. Destroying, disposing of, or altering any e-mail or other electronic data relevant to the subject matters of this case, whether stored on a hard drive or on a diskette or other electronic storage device.

26. Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance, at [redacted]. Houston, Texas 77005 or in any manner attempting to withdraw any deposits for service in connection with those services.

27. Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance, at [redacted] Galveston, Texas or in any manner attempting to withdraw any deposits for service in connection with those services.

28. Excluding Petitioner from the use and enjoyment of the residence located at [redacted] Houston, Texas 77005.

29. Excluding Respondent from the use and enjoyment of the residence located at [redacted], Galveston, Texas

30. Entering, operating, or exercising control over the 2014 Mercedes Wagon in the possession of Petitioner.

31. Entering, operating, or exercising control over the 2012 BMW 750 in the possession of Respondent.

22. Disturbing the peace of the child or of another party.

33. Withdrawing the child from enrollment in the school or day-care facility where the child is presently enrolled.

34. Hiding or secreting the child from Petitioner.

35. Making disparaging remarks regarding Petitioner or Petitioner's family in the presence or within the hearing of the child.

36. Permitting an unrelated adult with whom Respondent has an intimate or dating relationship to remain in the same residence with the child between the hours of 10:00 P.M. and 8:00 A.M.

Petitioner requests that Respondent be authorized only as follows:

To make expenditures and incur indebtedness for reasonable and necessary living

expenses for food, clothing, shelter, transportation, and medical care.

To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.

To make withdrawals from accounts in financial institutions only for the purposes authorized by the Court's order.

To engage in acts reasonable and necessary to conduct Respondent's usual business and occupation.

*13. **Request for Temporary Orders Concerning Use of Property***

Petitioner requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders and issue any appropriate temporary injunctions respecting the temporary use of the parties' property as deemed necessary and equitable, including but not limited to the following:

Awarding Petitioner the exclusive use and possession of the residence located at [redacted] Houston, Texas 77005, as well as the furniture, furnishings, and other personal property at that residence, while this case is pending, and enjoining Respondent from entering or remaining on the premises of the residence and exercising possession or control of any of this personal property, except as authorized by order of this Court.

Awarding Petitioner exclusive use and control of the 2014 Mercedes Wagon and enjoining Respondent from entering, operating, or exercising control over it.

Awarding Petitioner the exclusive use of the following property and enjoining Respondent from exercising possession or control of any of this property: the business commonly known as the Montrose Veterinary Clinic.

Awarding Respondent the exclusive use and possession of the residence located at [redacted], Galveston, Texas 77554, as well as the furniture, furnishings, and other personal property at that residence, while this case is pending, and enjoining Petitioner from entering or remaining on the premises of the residence and exercising possession or control of any of this personal property, except as authorized by order of this Court.

Awarding Respondent exclusive use and control of the 2012 BMW 750 and enjoining Petitioner from entering, operating, or exercising control over it.

14. Request for Temporary Orders Regarding Child

Petitioner requests the Court, after notice and hearing, to dispense with the necessity of a bond and to make temporary orders and issue any appropriate temporary injunctions for the safety and welfare of the child of the marriage as deemed necessary and equitable, including but not limited to the following:

Appointing Petitioner and Respondent temporary joint managing conservators, and designating Petitioner as the conservator who has the exclusive right to designate the primary residence of the child.

Ordering Respondent to pay child support, health insurance premiums for coverage on the child, 50 percent of the child's uninsured medical expenses, the child's private school expenses and the child's day-care expenses while this case is pending.

15. Request for Permanent Injunction

Petitioner requests the Court, after trial on the merits, to grant the following permanent injunction:

a. that the Court make the temporary injunctions requested herein above permanent as the Court deems necessary and appropriate to protect the best interests of the parties,

their property and their minor child

16. Attorney's Fees, Expenses, Costs, and Interest

It was necessary for Petitioner to secure the services of GOLDA R. JACOB and YOKA LARASATI, a licensed attorney, to prepare and prosecute this suit. To effect an equitable division of the estate of the parties and as a part of the division, and for services rendered in connection with conservatorship and support of the child, judgment for attorney's fees, expenses, and costs through trial and appeal should be granted against Respondent and in favor of Petitioner for the use and benefit of Petitioner's attorney and be ordered paid directly to Petitioner's attorney, who may enforce the judgment in the attorney's own name. Petitioner requests postjudgment interest as allowed by law.

17. Prayer

Petitioner prays that citation and notice issue as required by law and that the Court grant a divorce and all other relief requested in this petition.

Petitioner prays that the Court immediately grant a temporary restraining order restraining Respondent, in conformity with the allegations of this petition, from the acts set forth above, and Petitioner prays that, after notice and hearing, this temporary restraining order be made a temporary injunction.

Petitioner prays that, on final hearing, the Court enter a permanent injunction enjoining Respondent, in conformity with the allegations of this petition, from the acts set forth above.

Petitioner prays for attorney's fees, expenses, and costs as requested above.

Petitioner prays for general relief and any relief that she may be justly entitled based under the facts of this case.

Respectfully submitted,

GOLDA R. JACOB & ASSOCIATES, P.C.

By: _____

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