

No.

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In the Supreme Court of the United States

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SHAWN HALL LECUONA, Petitioner  
v.  
MARK R. LECUONA, Respondent

*On Petition for a Writ of Certiorari  
to the Texas Supreme Court*

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**PETITION FOR A WRIT OF CERTIORARI**

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Cecilia M. Wood,  
Attorney and  
Counselor at Law, P. C.  
1122 Colorado Street,  
Suite 2310  
Austin, Texas 78701  
(512) 708-8783  
[Cecilia@ceciliawood.com](mailto:Cecilia@ceciliawood.com)  
Counsel for Petitioner

i  
**QUESTIONS PRESENTED**

1. Does section 6.001 of the Texas Family Code, commonly known as “no-fault divorce”, when applied to Petitioner, violate her fundamental liberty interests protected by the Fourteenth Amendment’s Due Process clause, which include “intimate choices defining” her “personal identity and beliefs” concerning matters of religion and conscience as expressed in her marriage? U.S. Const. amend 1, 14; *Obergefell v. Hodges*, 135 S. Ct. 2584, 2589 (2015); Tex. Const. art. I, § 6; Tex. Fam. Code §6.001.
2. Does the right to marry encompass the right to be married and maintain the marital relationship in conformity with the personal and intimate beliefs of the participants requiring states to afford protections to those choices? U.S. Const. amend 14; *Obergefell v. Hodges*, 135 S. Ct. 2584, 2589 (2015).

ii  
**PARTIES TO THE PROCEEDING  
AND RULE 29.6 STATEMENT**

All parties to the proceeding are listed in the caption.

**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 29.6, Petitioner affirms that there is no party to the controversy that is a corporation.

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## **OPINIONS BELOW<sup>1</sup>**

The opinion of the Texas Supreme Court is not reported. The opinion of the Third Court of Appeals was a memorandum opinion and was also unpublished. *Lecuona v. Lecuona*, No. 03-17-00138-CV, 2018 WL 2994587, at \*1 (Tex. App. June 15, 2018, review denied October 5, 2018) (memo op.). App. 1a-6a. As is the practice in Texas State Court, the verdict or order of the trial court, the Final Decree of Divorce, was not reported. App. 10a-58a.

## **JURISDICTION**

The opinion of the Texas Supreme Court, denying review, was issued on the October 5, 2018. This Court's jurisdiction rests on 28 U. S. C. §1257.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.  
U.S. Const. amend. I

**Section 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV

Sec. 6. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Tex. Const. art. I, § 6

On the petition of either party to a marriage, the court may grant a divorce without regard to fault if the marriage has become insupportable because of

discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation.

Tex. Fam. Code Ann. § 6.001.

## INTRODUCTION

Affording Shawn<sup>1</sup> protection in this instance, will not prohibit “no fault” divorce in all or even most cases. Neither will it impede the rights of others to construct their marriages in a way that ignores or even defies all religious or moral tenants. This case involves only the rights of these two and other consenting adults who agreed to marry pursuant to their mutual religious beliefs; for the purpose of expressing those beliefs, and the continuance of which would “pose no risk of harm to themselves or third parties.” See, *Obergefell v. Hodges*, 135 S. Ct. 2584, 2607 (2015). Failing to grant relief, will deprive Shawn of the constitutional protections to which she is entitled. Further, it will, without any basis, burden the right of people of faith to marry in accordance with their religious beliefs.

The Fourteenth Amendment requires the state to protect fundamental liberty interests, as well as, enumerated rights. *Duncan v. Louisiana*,

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1. As both parties have the same last name, Petitioner refers to the parties by their first name to conform to the same references in the opinion of the Third Court of Appeals. *Lecuona v. Lecuona*, No. 03-17-00138-CV, 2018 WL 2994587, at \*1 (Tex. App. June 15, 2018).

391 U.S. 145 (1968). Shawn's claims seek protection of both. Shawn and Mark, with and through God, privately constructed this most intimate of relationships, defined the legitimate ends of their marriage and chose a course to accomplish the desired results, guided by their mutual religious beliefs and convictions. App. 75 a, 77a, 86a -90a. Unlike the right to marry, there is no reciprocal constitutional right to divorce that "requires state restrictions on divorce must be evaluated under the same exacting standards as restrictions on, for example, the right to travel, the right to vote, or the right to marry." *Murillo v. Bambrick*, 681 F.2d 898, 902-03 (3d Cir. 1982).

The unwarranted intrusion of the state into this private and intimate relationship, without fault on the part of at least one party to the marriage, is as offensive as the intrusion of the state into their physical home without probable cause.

## **STATEMENT**

This case involves an applied constitutional challenge to Section 6.001 of the Texas Family Code, more commonly known as no-fault divorce. Tex. Fam. Code §6.001.

### **A. The Lecuona Marriage**

It is undisputed that the parties began their marriage in 1994, as an expression of their mutual religious beliefs, in which God was both Creator and participant; and was a covenant sealed by the blood of Jesus. App. 75 a, 77a, 86a -90a.

### **B. Trial Court Proceedings**

In response to Mark’s action for divorce, Shawn timely raised her constitutional objections. App. 66a – 95a. These objections were overruled on October 8, 2015. App. 9a. The divorce was granted solely on the grounds of insupportability. App. 11a, Tex. Fam. Code Ann. § 6.001.

### **C. The Third Court of Appeals for Texas**

The Third Court of Appeals regarded Shawn’s challenges to the constitutionality of Section 6.001 as a question of whether Shawn’s liberty interests in maintaining and preserving this “immutable blood covenant” were superior to Mark’s “liberty and state divorce laws.” *Lecuona v. Lecuona*, No. 03-17-00138-CV, 2018 WL 2994587, at \*1 (Tex. App. June 15, 2018) (memo op.) (*internal citations omitted*). Rather than a claim for protection under existing recognized constitutional rights, the Third Court of Appeals viewed Shawn’s claims as “a significant and novel expansion of *Obergefell*.” *Lecuona v. Lecuona*, No. 03-17-00138-CV, 2018 WL 2994587, at \*1 (Tex. App. June 15, 2018), *review denied* (Oct. 5, 2018). App. 4a.

## **D. Texas Supreme Court Ruling.**

The Texas Supreme Court denied review without opinion, thereby affirming the opinion of the Third Court of Appeals. App. 7a-8a; *Gammel-Statesman Pub. Co. v. Ben C. Jones & Co.*, 206 S.W. 931 (Tex. Comm'n App. 1918).

## **REASONS FOR GRANTING THE PETITION**

Even though this is an applied challenge, it is important for this Court to grant this petition for one of two reasons. Either, the opinion of the state court, regarding the right to marry, decided an important federal question in a manner that conflicts with a relevant decision of this Court; or, in the alternative, the state court decided an important question of federal law that has not been, but should be settled by this Court. *Lecuona v. Lecuona*, No. 03-17-00138-CV, 2018 WL 2994587, at \*1 (Tex. App. June 15, 2018, review denied October 5, 2018) (memo op.); *see, Obergefell v. Hodges*, 135 S. Ct. 2584, (2015).

The application of section 6.001 of the Texas Family Code in this case, burdens Shawn's fundamental liberty interests protected by the due process clause, including her right to marry, establish a home and bring up children, and to

worship God according to the dictates of her own conscience. U.S. Const. amend. XIV; *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *Obergefell*, 135 S. Ct. 2584, 2589 (2015); *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Duncan v. State of La.*, 391 U.S. 145 (1968); *Hamilton v. Regents of the Univ. of Calif.*, 293 U.S. 245, 262 (1934); Tex. Fam. Code Ann. § 6.001. Unlike the right to marry, however, there is no reciprocal constitutional right to divorce that “requires state restrictions on divorce must be evaluated under the same exacting standards as restrictions on, for example, the right to travel, the right to vote, or the right to marry.” *Murillo v. Bambrick*, 681 F.2d 898, 902–03 (3d Cir. 1982).

**I. The opinion of the state court, regarding the right to marry, decided an important federal question in a manner that conflicts with a relevant decision of this Court.**

“In forming a marital union, two people become something greater than once they were.” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2608 (2015). Those words echo the Word on which Shawn stated the Lecuona marriage was based: “and the two shall become one flesh, so they are no longer two, but one flesh.” App. 86a. “Therefore, what God has joined together”, is not to be broken. App. 103a. It is undisputed that the “Covenant of the Blood”, Jesus, God, and other religious beliefs resulted in no separation of matters of faith, marriage, and daily

life for Shawn. App. 82a - 90a. These beliefs define her personal identity and as such, are entitled to protection under the Fourteenth Amendment Due Process Clause. *Obergefell v. Hodges*, 135 S. Ct. 2584, 2589 (2015). Texas' current "no-fault" divorce statutory scheme permits the state to intervene into the privacy of the Lecuona marriage, without any alleged fault by the parties or compelling state interest; and with total disregard for the personal and intimate beliefs and choices of the parties, modify and terminate the marriage.

"The first premise of this Court's relevant precedents is that the right to personal choice regarding marriage is inherent in the concept of individual autonomy." *Obergefell*, 135 S. Ct. 2584, 2589 (2015). Logically, therefore, the state cannot justify interfering into the "zone of privacy" that encompasses the entire marital relationship, including the choices, decisions, purposes, legitimate ends of the marriage, or the reasons that would destroy those legitimate ends. See, *Griswold*, 381 U.S. at 485 (choice to use contraceptives was protected within the context of marriage by right to privacy); *Obergefell*, 135 S. Ct. 2584, 2589 (2015). Certainly, the right to marry is meaningless unless it includes the right to maintain the marriage. This Court previously recognized the link between the two, holding "choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion by the State because of the role of such relationships in safeguarding the individual freedom that is central

to our constitutional scheme.” *Roberts v. U.S. Jaycees*, 468 U.S. 609, 617–18 (1984).

Further, the fact that the personal and intimate choices of the parties are based on religion or matters of conscience cannot diminish the protections that should be afforded these choices. To the contrary, personal, intimate choices of religion and conscience should be afforded additional protection in that they are also protected by the inherent right to privacy found in the “penumbra of the constitution” and because they are specifically enumerated rights protected by both the United States Constitution and the Texas Constitution. U.S. Const. amend. I; XIV; *See, Griswold*, 381 U.S. at 485; *Roe v. Wade*, 410 U.S. 113, 152–53 (1973), *holding modified by Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833 (1992); Tex. Const. art. I, § 6. “Marriage is sacred to those who live by their religions and offers unique fulfillment to those who find meaning in the secular realm.” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2594 (2015). Neutrality would dictate that marital choices based on a desire to fulfill a religious purpose be given the same dignity and protections as those based on other criteria. “The Free Exercise Clause bars even subtle departures from neutrality on matters of religion.” U.S.C.A. Const. Amend. 1; *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, \_\_\_\_ U.S. \_\_\_, \_\_\_\_ 138 S. Ct. 1719 (2018).

“In determining whether a religious belief or practice is involved, emphasis should be placed on

plaintiffs' "inward attitudes towards [the] particular belief system" and great weight should be accorded to their claims that the beliefs and actions in question are an essential part of their religious faith." *Storm v. Town of Woodstock, N.Y.*, 32 F. Supp. 2d 520, 527 (N.D.N.Y.), *aff'd*, 165 F.3d 15 (2d Cir. 1998). It was undisputed that Shawn shared the belief with her husband, that the "Covenant of the Blood" Jesus is not only the Creator of the marriage, but an equal participant with Shawn and Mark. App. 75a, 77a, 86a. Therefore, the burden shifted to Mark. *Holt v. Hobbs*, \_\_\_\_ U. S. \_\_\_, \_\_\_\_ 135 S. Ct. 853, 863 (2015). In order to prevail, he was required to demonstrate that the statute's infringement on Shawn's fundamental liberty interests was "narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 301–02, 113 (1993). No such showing was made or even attempted.

Nevertheless, the Third Court of Appeals viewed Shawn's claim that all her decisions concerning her marriage were entitled to the same protection as her choice of spouse as "a significant and novel expansion of *Obergefell*". *Lecuona v. Lecuona*, No. 03-17-00138-CV, 2018 WL 2994587, at \*1 (Tex. App. June 15, 2018), *review denied* (Oct. 5, 2018). App. 2a. In so doing, the state failed to protect Shawn's privacy rights, regarding marriage, as enunciated in *Obergefell v. Hodges*. *Obergefell v. Hodges*, 135 S. Ct. 2584, (2015).

**II. In the alternative, the Third Court of Appeals decided an important question of federal law that has not been, but should be settled by this Court.**

If the Third Court of Appeals was correct in holding that the liberty interest described in *Obergefell v. Hodges* was limited to only the choice of a marriage partner, then this Court should grant review to determine whether in fact a citizen has a liberty interest in all aspects of marriage.

“Decisions about marriage are among the most intimate that an individual can make” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2589 (2015); *Lawrence v. Texas*, 539 U.S. 558, 574, 123 S. Ct. 2472, 156 L. Ed. 2d 508 (2003). “The fundamental liberties protected by the Fourteenth Amendment's Due Process Clause extend to certain personal choices central to individual dignity and autonomy, including intimate choices defining personal identity and beliefs.” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2597–98 (2015). The choice of a spouse is only the first of many, many choices that marriage partners must make. This Court has previously recognized specific choices that are protected within the confines of marriage. *Griswold v. Connecticut*, 381 U.S. 479, 85 S. Ct. 1678, 14 L.Ed.2d 510 (1965) (choice to use contraceptives was protected within the context of marriage by right to privacy). All decisions made within the confines of marriage should be protected in the same manner.

12  
**CONCLUSION**

Accordingly, the petition for a writ of certiorari should be granted.

Respectfully submitted,  
CECILIA M. WOOD  
ATTORNEY AND COUNSELOR  
AT LAW, P. C.  
1122 Colorado Street, Suite 2310  
Austin, Texas 78701  
Telephone No.: (512) 708-8783  
[Cecilia@ceciliawood.com](mailto:Cecilia@ceciliawood.com)  
Counsel for Petitioner

## **APPENDIX**

1a

**APPENDIX A**

2018 WL 2994587

Only the Westlaw citation is currently available.  
SEE TX R RAP RULE 47.2 FOR DESIGNATION  
AND SIGNING OF OPINIONS.  
Court of Appeals of Texas, Austin  
Shawn Hall LECUONA, Appellant

v.

Mark R. LECUONA, Appellee  
NO. 03-17-00138-CV  
Filed: June 15, 2018

**FROM THE DISTRICT COURT OF TRAVIS  
COUNTY, 250TH JUDICIAL DISTRICT, NO. D-  
1-FM-14-002342, HONORABLE KARIN  
CRUMP, JUDGE, PRESIDING**

**Attorneys and Law Firms**

Mr. Samuel Bassett, Ms. Zooey Wharton, Minton  
Burton Bassett & Collins, 1100 Guadalupe St.,  
Austin, TX 78701-2116, for Appellees.

Ms. Cecilia M. Wood, Attorney and Counselor at  
Law, P.C., Capitol Center, 919 Congress Avenue,  
Suite 830, Austin, TX 78701, for Appellant.

Before Chief Justice Rose, Justices Pemberton and  
Goodwin

**MEMORANDUM OPINION**

Bob Pemberton, Justice

\*1 Shawn Hall Lecuona appeals from a final divorce  
decree that ended her marriage to Mark R. Lecuona.  
We will affirm the decree.

Mark was the petitioner below,<sup>1</sup> and the sole ground  
for divorce on which he relied, and which the district

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1 We refer to the parties by their first names because  
they share a surname.

court subsequently found, was the no-fault “insupportability” ground.<sup>2</sup> Shawn opposed the divorce on religious grounds and urged that Mark's suit, and particularly the no-fault “insupportability” standard on which he relied, unconstitutionally infringed her protected interests in what she viewed as an immutable “blood covenant” among the couple and the Almighty.<sup>3</sup> Shawn brings a version of this

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- 2     See Tex. Fam. Code § 6.001 (“On the petition of either party to a marriage, the court may grant a divorce without regard to fault if the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation.”). The parties had been married since 1994, but Mark alleged, without dispute, that the couple had been separated for approximately six years before he filed his petition in 2014 and had remained so during the proceedings below.
- 3     Shawn presented her most elaborate articulation of this theory through a counterclaim for declaratory relief. The district court denied that relief by a pretrial written order. Later at trial, Shawn raised religion-based objections or arguments that appeared to allude to the earlier counterclaim. Shawn's notice of appeal expressly challenges both the final decree and the order denying her declaratory relief, which became final and appealable when the divorce decree was signed. See, e.g., *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001) (“A judgment is final for purposes of appeal if it disposes of all pending parties and claims in the record, except as necessary to carry out the decree.” (citations omitted) ). For this reason, we deny what is substantively a motion by Mark to dismiss this portion of Shawn's appeal based on her asserted failure to timely appeal the ruling.

argument forward on appeal as her first issue and chief ground for reversal—she insists that the United States Supreme Court's decision *Obergefell v. Hodges*,<sup>4</sup> the decision striking down state prohibitions against same-sex marriage as violative of a “right to marry [that] is a fundamental right inherent in the liberty of the person” and protected by the Due Process and Equal Protection Clauses of the federal constitution,<sup>5</sup> translates into a constitutional restriction against Mark's unilateral invocation of Texas's no-fault divorce law to end a marriage that she, for professed religious reasons, desires to continue.<sup>6</sup> We cannot agree that *Obergefell*, whose analysis is rooted in the Supreme Court's view of personal liberty,<sup>7</sup> either directly or by implication recognizes what would effectively be an affirmative constitutional right of one spouse to compel an unwilling other spouse to remain married, in derogation of both the other spouse's liberty and

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4 135 S. Ct. 2584 (2015).

5 *Id.* at 2604.

6 Mark disputes whether Shawn preserved the arguments she now raises on appeal, but the issue is sufficiently close that we will afford her the benefit of any such doubts.

7 *See id.* at 2597–605. citing other authorities recognizing *Obergefell's* limited scope ).

state divorce laws.<sup>8</sup> In the very least, Shawn's theory represents a significant and novel expansion of *Obergefell* that is not properly undertaken by this intermediate state appellate court.<sup>9</sup> We accordingly overrule Shawn's first issue.

\*2 Aside from her arguments derived from *Obergefell*, Shawn brings two additional issues, each of which challenge the sufficiency of the evidence supporting the decree. In her second issue, Shawn insists that Mark failed to prove up the ground of insupportability. The record, including Mark's testimony, belies that contention. Shawn's assertions to the contrary ultimately implicate instead the district court's judgments as to the credibility and

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8. Cf. *Pidgeon v. Turner*, 538 S.W.3d 73, 86–87 (Tex. 2017) (observing, in context of holding that *Obergefell* “did not address and resolve” the issue of “whether and the extent to which the Constitution requires states or cities to provide tax-funded benefits to same-sex couples” or invalidate Texas “Defense of Marriage” enactments, “[w]hatever ramifications *Obergefell* may have for sexual relations beyond the approval of same-sex marriage are unstated at best ...” (quoting *Coker v. Whittington*, 858 F.3d 304, 307 (5th Cir. 2017), and *Whittington*, 858 F.3d 304, 307 (5th Cir. 2017), and citing other authorities recognizing *Obergefell*'s limited scope) ).

9. See *Ex parte Morales*, 212 S.W.3d 483, 488 (Tex. App.—Austin 2006, pet. ref'd) (observing, in context of novel constitutional challenge to Penal Code Section 21.12, that “as an intermediate state appellate court, we must ... defer to the authoritative pronouncements of higher courts that currently define the scope of the constitutional principles we apply here” (citing *Petco Animal Supplies, Inc. v. Schuster*, 144 S.W.3d 554, 564—(Tex. App.—Austin 2004, no pet.) )).

weight of the evidence presented.<sup>10</sup> We overrule Shawn's second issue.

Shawn's third issue is predicated on her first two, urging that the district court lacked authority to divide the community estate because it had no authority to grant the divorce in the first place. This contention fails for the preceding reasons.

Alternatively, Shawn asserts that the district court improperly characterized certain of her retirement accounts as community property despite her having established their separate character through clear and convincing evidence.<sup>11</sup> We review the district court's division of property under an overarching abuse-of-discretion standard.<sup>12</sup> To establish an abuse of discretion here, Shawn must demonstrate that she presented conclusive evidence that the accounts were separate property and that the

mischaracterization materially impacted the district

10 *See City of Keller v. Wilson*, 168 S.W.3d 802, 822, 827 (Tex. 2005) (discussing principle that we view the evidence in the light most favorable to the decision, crediting favorable evidence if a reasonable fact-finder could, and disregarding contrary evidence unless a reasonable fact-finder could not).

11 *See Pearson v. Fillingim*, 332 S.W.3d 361, 363 (Tex. 2011) (per curiam) ("Parties claiming certain property as their separate property have the burden of rebutting the presumption of community property. To do so, they must trace and clearly identify the property in question as separate by clear and convincing evidence." (citing *McKinley v. McKinley*, 496 S.W.2d 540, 543 (Tex. 1973); Tex. Fam. Code § 3.003(b) ("The degree of proof necessary to establish that property is separate property is clear and convincing evidence.")) ).

12 *See, e.g., Roberts v. Roberts*, 531 S.W.3d 224, 232 (Tex. App.—San Antonio 2017, pet. denied) (citing *Murff v. Murff*, 615 S.W.2d 696, 698 (Tex. 1981) ).

court's division of the community estate.<sup>13</sup> "Evidence is conclusive only if reasonable people could not differ in their conclusions."<sup>14</sup> The evidence fell short of conclusively establishing the separate-property status of the retirement accounts—it included a property inventory from Shawn herself in which she indicated that the accounts in question were community

assets.<sup>15</sup> We overrule Shawn's third issue.

## CONCLUSION

\*3 We affirm the district court's final divorce decree.

## All Citations

Not Reported in S.W. Rptr., 2018 WL 2994587

## Footnotes

13 See *Shields Ltd. P'ship v. Bradberry*, 526 S.W.3d 471, 480 (Tex. 2017) (where party attacks legal sufficiency of adverse finding (or failure to find) on issue on which it bears the burden of proof, judgment must be sustained unless the record conclusively establishes all vital facts in support of the issue); see also *Matter of Marriage of Ramsey & Echols*, 487 S.W.3d 762, 766 (Tex. App.—Waco 2016, pet. denied) ("It is [the] appellant's burden to prove that any disparity in the division was caused by the mischaracterization of property and that it was of such substantial proportions that it constituted an abuse of the trial court's discretion.").

14 *City of Keller*, 168 S.W.3d at 816.

15 See, e.g., *Barras v. Barras*, 396 S.W.3d 154, 164 (Tex. App.—Houston [14th Dist.] 2013, pet. denied) ("[T]he clear and convincing standard is not satisfied by testimony that property possessed at the time the marriage is dissolved is separate property when such testimony is contradicted or unsupported by documentary evidence tracing the asserted separate nature of the property."); *Graves v. Tomlinson*, 329 S.W.3d 128, 139 (Tex. App.—Houston [14th Dist.] 2010, pet. denied) (same).

**7a**  
**APPENDIX B**

FILE COPY

RE: Case No. 18-0694 Date: 10/5/18  
COA #: 03-17-00138-CV TC# : D-1-FM-14-002342  
STYLE: LECUONA v. LECUONA

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

DISTRICT CLERK TRAVIS COUNTY  
TRAVIS COUNTY COURT  
P. O. Box 679003  
Austin, TX 78767  
\*DELIVERED VIA EMAIL

FILE COPY

RE: Case No. 18-0694 Date: 10/5/18  
COA #: 03-17-00138-CV TC# : D-1-FM-14-002342  
STYLE: LECUONA v. LECUONA

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MS. ZOOEY WHARTON  
MINTON, BURTON, BASSETT, & COLLINS,  
P.C.  
1100 Guadalupe Street  
Austin, TX 78701  
\*DELIVERED VIA EMAIL

FILE COPY

RE: Case No. 18-0694 Date: 10/5/18  
COA #: 03-17-00138-CV TC# : D-1-FM-14-002342  
STYLE: LECUONA v. LECUONA

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MR. SAMUEL E. BASSETT  
MINTON, BURTON, BASSETT, & COLLINS,  
P.C.

8a  
1100 Guadalupe Street  
Austin, TX 78701  
\*DELIVERED VIA EMAIL

FILE COPY

RE: Case No. 18-0694 Date: 10/5/18  
COA #: 03-17-00138-CV TC#: D-1-FM-14-002342  
STYLE: LECUONA v. LECUONA

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MR. JEFFREY D. KYLE  
CLERK, THIRD COURT OF APPEALS  
209 West 14<sup>th</sup> Street, Room 101  
Austin, TX 78701  
\*DELIVERED VIA EMAIL

FILE COPY

RE: Case No. 18-0694 Date: 10/5/18  
COA #: 03-17-00138-CV TC#: D-1-FM-14-002342  
STYLE: LECUONA v. LECUONA

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MS. CECILIA M. WOOD  
LAW OFFICES OF CECILIA M. WOOD, P.C.  
919 Congress Avenue, Suite 830  
Austin, TX 78701  
\*DELIVERED VIA EMAIL

## APPENDIX C

NOTICE: THIS DOCUMENT  
CONTAINS SENSITIVE DATA

NO. D-1-FM-14-002342

IN THE MATTER OF § IN THE DISTRICT COURT  
THE MARRIAGE OF §

§  
MARK R. LECUONA §  
AND §250<sup>TH</sup> JUDICIAL DISTRICT  
SHAWN HALL §  
LECUONA §  
§

AND IN THE §  
INTEREST OF §  
[REDACTED] AND [REDACTED] §

MINOR CHILDREN § TRAVIS COUNTY, TEXAS

### **ORDER DENYING RESPONDENT'S MOTION FOR DECLARATORY JUDGMENT AND ORDER DENYING PROTECTIVE ORDER**

On October 8, 2015 the Court heard  
Respondent's Motion for Declaratory Judgement and  
Motion for Protective Order.

IT IS ORDERED that Respondent's Motion for  
Declaratory Judgment is hereby DENIED.

IT IS ORDERED that Respondent's Motion for  
Declaratory Judgment is hereby DENIED.

SIGNED on 10/22/15. (*handwritten by judge*)

Charles Ramsey (*handwritten by judge*)

JUDGE PRESIDING

IMMO Lecuona

Order on Respondent's Motion for Declaratory  
Judgment and Motion for PO  
Page 1 of 1

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**APPENDIX D**  
**NOTICE: THIS DOCUMENT**  
**CONTAINS SENSITIVE DATA**

NO. D-1-FM-14-002342

IN THE MATTER OF § IN THE DISTRICT COURT  
THE MARRIAGE OF §  
§  
MARK R. LECUONA §  
AND §250<sup>TH</sup> JUDICIAL DISTRICT  
SHAWN HALL §  
LECUONA §  
§  
AND IN THE §  
INTEREST OF §  
[REDACTED] AND [REDACTED] §  
MINOR CHILDREN § TRAVIS COUNTY, TEXAS

**AGREED <sup>kc</sup> FINAL DECREE OF DIVORCE**

On September 29, 2016, the Honorable  
Karin Crump heard this case.

**Appearances**

Petitioner, MARK R. LECUONA, appeared  
in person and through attorney of record, Samuel  
E. Bassett, and announced ready.

Respondent, SHAWN HALL LECUONA,  
appeared in person, Pro Se, and announced ready.

**Record**

The making of a record of testimony was  
made by Jamie K. Foley.

**Jurisdiction and Domicile**

The Court finds that the pleadings of  
Petitioner and Respondent are in due form and  
contain all the allegations, information, and  
prerequisites required by law. The Court, after

receiving evidence, finds that it has jurisdiction over this cause of action and the parties and that at least 60 days have elapsed since the date the suit was filed. The Court finds that Petitioner and Respondent have been domiciliaries of this state for at least a six-month period preceding the filing of this action and a resident of the county in which this suit is filed for at least a 90-day period preceding the filing of this action. All persons entitled to citation were properly cited.

**Jury**

A jury was waived, and questions of fact and of law were submitted to the Court.

**Divorce**

IT IS ORDERED AND DECREED that MARK R. LECUONA, Petitioner, and SHAWN HALL LECUONA, Respondent, are divorced and that the marriage between them on the ground of insupportability.

**Children of the Marriage**

The Court finds that Petitioner and Respondent are the parents of the following children:

Name: [REDACTED]

Sex: Male

Birthdate: XX/XX/[REDACTED]

Homestate: Texas

Social Security Number: xx- xx-xxxx

Name: [REDACTED]

Sex: Female

Birthdate: XX/XX/[REDACTED]

Homestate: Texas

Social Security Number: xx- xx-xxxx

The Court finds no other children of the marriage

are expected.

**Parenting Plan**

The Court finds that the provisions in this decree relating to the rights and duties of the parties with relation to the children, possession of and access to the children, child support, and optimizing the development of a close and continuing relationship between each party and the children constitute the parenting plan established by the Court.

**Conservatorship**

The Court, having considered the circumstances of the parents and of the children, finds that the following orders are in the best interest of the children.

IT IS ORDERED that MARK R. LECUONA and SHAWN HALL LECUONA are appointed Joint Managing Conservators of the following children: [REDACTED] and [REDACTED]

IT IS ORDERED that, at all times, MARK R. LECUONA and SHAWN HALL LECUONA, as parent joint managing conservators, shall each have the following rights:

1. the right to receive information from any other conservator of the children concerning the health, education, and welfare of the children;
2. the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the children;
3. the right of access to medical, dental, psychological, and educational records of the children;

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4. the right to consult with a physician, dentist, or psychologist of the children;
5. the right to consult with school officials concerning the children's welfare and educational status, including school activities;
6. the right to attend school activities;
7. the right to be designated on the children's records as a person to be notified in case of an emergency;
8. the right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the children; and
9. the right to manage the estates of the children to the extent the estates have been created by the parent or the parent's family.

IT IS ORDERED that, at all times, MARK R. LECUONA and SHAWN HALL LECUONA, as parent joint managing conservators, shall each have the following duties:

1. the duty to inform: the other conservator of the children in a timely manner of significant information concerning the health, education, and welfare of the children; and
2. the duty to inform the other conservators of the children if the conservator resides with for at least thirty days, marries, or intends to marry a person who the conservator knows is registered as a sex offender under chapter 62 of the Code of Criminal Procedure or is currently charged with an offense for which on conviction the person would be required to register under that chapter. IT IS ORDERED that this information shall be tendered

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in the form of a notice made as soon as practicable, but not later than the fortieth day after the date the conservator of the children begins to reside with the person or on the tenth day after the date the marriage occurs, as appropriate. IT IS ORDERED that the notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE.

IT IS ORDERED that, during their respective periods of possession, MARK R. LECUONA and SHAWN HALL LECUONA, as parent joint managing conservators, shall each have the following rights and duties:

1. the duty of care, control, protection, and reasonable discipline of the children;
2. the duty to support the children, including providing the children with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
3. the right to consent for the children to medical and dental care not involving an invasive procedure; and
4. the right to direct the moral and religious training of the children.

IT IS ORDERED that SHAWN HALL LECUONA, as a parent joint managing conservator, shall have the following rights and duty:

1. the exclusive right to designate the primary

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- residence of the child within Travis County;
2. the right, subject to the agreement of the other parent conservator, to consent to medical, dental, and surgical treatment involving invasive procedures.
  3. the right, subject to the agreement of the other parent conservator, to consent to psychiatric and psychological treatment of the children.
  4. the exclusive right to receive and give receipt for periodic payments for the support of the children and to hold or disburse these funds for the benefit of the children;
  5. the right, subject to the agreement of the other parent conservator, to represent the children in legal action and to make other decisions of substantial legal significance concerning the children;
  6. the right, subject to the agreement of the other parent conservator, to consent to marriage and to enlistment in the armed forces of the United States;
  7. the right, subject to the agreement of the other parent conservator, to make decisions concerning the children's education.
  8. except as provided by section 264.0111 of the Texas Family Code, the right, subject to the agreement of the other parent conservator, to the services and earnings of the children;
  9. except when a guardian of the children's estates or a guardian or attorney ad litem has been appointed for the children, the right, subject to the agreement of the other parent conservator, to act as an agent of the children in relation to the children's estates if the children's action is required by a state, the United States, or a foreign government; and
  10. the duty, subject to the agreement of the other parent conservator, to manage the estates of the children to the extent the estates have been created

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by community property or the joint property of the parent.

IT IS ORDERED that MARK R. LECUONA, as a parent joint managing conservator, shall have the following rights and duty:

1. the right, subject to the agreement of the other parent conservator, to consent to medical, dental, and surgical treatment involving invasive procedures.
2. the right, subject to the agreement of the other parent conservator, to consent psychiatric and psychological treatment of the children.
3. the right, subject to the agreement of the other parent conservator, to represent the children in legal action and to make other decisions of substantial legal significance concerning the children;
4. the right, subject to the agreement of the other parent conservator, to consent to marriage and to enlistment in the armed forces of the United States;
5. the right, subject to the agreement of the other parent conservator, to make decisions concerning the children's education.
6. except as provided by section 264.0111 of the Texas Family Code, the right, subject to the agreement of the other parent conservator, to the services and earnings of the children;
7. except when a guardian of the children's estates or a guardian or attorney ad litem has been appointed for the children, the right, subject to the agreement of the other parent conservator, to act as an agent of the children in relation to the children's estates if the children's action is required by a state, the United States, or a foreign government; and
8. the duty, subject to the agreement of the other parent conservator, to manage the estates of the

children to the extent the estates have been created by community property or the joint property of the parents.

The Court finds that, in accordance with section 153.001 of the Texas Family Code, it is the public policy of Texas to assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child, to provide a safe, stable, and nonviolent environment for the child, and to encourage parents to share in the rights and duties of raising their child after the parents have separated or dissolved their marriage. IT IS ORDERED that the primary residence of the children shall be Travis County, Texas, and the parties shall not remove the children from Travis County, Texas for the purpose of changing the primary residence of the children until modified by further order of the court of continuing jurisdiction or by written agreement signed by the parties and filed with the court.

IT IS FURTHER ORDERED that SHAWN HALL LECUONA shall have the exclusive right to designate the children's primary residence within Travis County, Texas.

Possession and Access

*1. Expanded Standard Possession Order*

IT IS ORDERED that each conservator shall comply with all terms and conditions of this Expanded Standard Possession Order. IT IS ORDERED that this Expanded Standard Possession Order is effective immediately and applies to all periods of possession occurring on and after the date the Court signs this Expanded Standard Possession Order.

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IT IS, THEREFORE, ORDERED:

(a) Definitions

1. In this Expanded Standard Possession Order "school" means the elementary or secondary school in which the child is enrolled or, if the child is not enrolled in an elementary or secondary school, the public school district in which the child primarily resides.

2. In this Expanded Standard Possession Order "child" includes each child, whether one or more, who is a subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

(b) Mutual Agreement or Specified Terms for Possession

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out in this Expanded Standard Possession Order.

(c) Parents Who Reside 100 Miles or Less Apart

Except as otherwise expressly provided in this Expanded Standard Possession Order, when MARK R. LECUONA resides 100 miles or less from the primary residence of the child, MARK R. LECUONA shall have the right to possession of the child as follows:

1. Weekends –

On weekends that occur during the regular school term, beginning at the time the child's

school is regularly dismissed, on the first, third, and fifth Friday of each month and ending at the time the child's school resumes after the weekend.

On weekends that do not occur during the regular school term, beginning at 6:00 p.m., on the first, third, and fifth Friday of each month and ending at 6:00 p.m. on the following Sunday.

2. Weekend Possession Extended by a Holiday -

Except as otherwise expressly provided in this Expanded Standard Possession Order, if a weekend period of possession by MARK R. LECUONA begins on a student holiday or a teacher in-service day that falls on a Friday during the regular school term, as determined by the school in which the child is enrolled, or a federal, state, or local holiday that falls on a Friday during the summer months when school is not in session, that weekend period of possession shall begin at the time the child's school is regularly dismissed on the Thursday immediately preceding the student holiday or teacher in-service day and 6:00 p.m. on the Thursday immediately preceding the federal, state, or local holiday during the summer months.

Except as otherwise expressly provided in this Expanded Standard Possession Order, if a weekend period of possession by MARK R. LECUONA ends on or is immediately followed by a student holiday or a teacher in-service day that falls on a Monday during the regular school term, as determined by the school in which the child is enrolled, or a federal, state, or local holiday that falls on a Monday during the summer months when school is not in session, that weekend period of

possession shall end at 6:00 p.m. on that Monday.

3. Thursdays - On Thursday of each week during the regular school term, beginning at the time the child's school is regularly dismissed and ending at the time the child's school resumes on Friday.

4. Spring Vacation in Even-Numbered Years – In even-numbered years, beginning at the time the child's school is dismissed for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

5. Extended Summer Possession by MARK R. LECUONA –

With Written Notice by April 1 - If MARK R. LECUONA gives SHAWN HALL LECUONA written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, MARK R. LECUONA shall have possession of the child for thirty days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6:00 p.m. on each applicable day, as specified in the written notice. These periods of possession shall begin and end at 6:00 p.m. on each applicable day.

Without Written Notice by April 1 - If MARK R. LECUONA does not give SHAWN HALL LECUONA written notice by April 1 of a year specifying an extended period or periods of

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summer possession for that year, MARK R. LECUONA shall have possession of the child for thirty consecutive days in that year beginning at 6:00 p.m. on July 1 and ending at 6:00 p.m. on July 31.

Notwithstanding the Thursday periods of possession during the regular School term and the weekend periods of possession ORDERED for MARK R. LECUONA, it is expressly ORDERED that SHAWN HALL LECUONA shall have a superior right of possession of the child as follows:

1. Spring Vacation in Odd-Numbered Years - In odd-numbered years, beginning at the time the child's school is dismissed for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

2. Summer Weekend Possession by SHAWN HALL LECUONA - If SHAWN HALL LECUONA gives MARK R. LECUONA written notice by April 15 of a year, SHAWN HALL LECUONA shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of the extended summer possession by MARK R. LECUONA in that year, provided that SHAWN HALL LECUONA picks up the child from MARK R. LECUONA and returns the child to that same place and that the weekend so designated does not interfere with Father's Day apossession.

3. Extended Summer Possession by SHAWN HALL LECUONA- If SHAWN HALL LECUONA gives MARK R. LECUONA written notice by April 15 of a year or gives MARK R.

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LECUONA fourteen days' written notice on or after April 16 of a year, SHAWN HALL LECUONA may designate one weekend beginning no earlier than the day after the child's school is ~~dismissed~~ for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession by MARK R.

LECUONA shall not take place in that year, provided that the weekend so designated does not interfere with MARK R. LECUONA's period or periods of extended summer possession or with Father's Day possession.

(d) Parents Who Reside More Than 100 Miles Apart

Except as otherwise expressly provided in this Expanded Standard Possession Order, when MARK R. LECUONA resides more than 100 miles from the residence of the child, MARK R. LECUONA shall have the right to possession of the child as follows:

1. Weekends - Unless MARK R. LECUONA elects the alternative period of weekend possession described in the next paragraph, MARK R. LECUONA shall have the right to possession of the child on weekends that occur during the regular school term, beginning at the time the child's school is regularly dismissed, on the first, third, and fifth Friday of each month and ending at the time the child's school resumes after the weekend, and on weekends that do not occur during the regular school term, beginning at 6:00 p.m. on the first, third and fifth Friday of each month and ending at 6:00 p.m. on the following Sunday.

Alternate Weekend Possession - In lieu of the

weekend possession described in the foregoing paragraph, MARK R. LECUONA shall have the right to possession of the child not more than one weekend per month of MARK R. LECUONA's choice beginning at 6:00 p.m. on the day school recesses for the weekend and ending at 6:00 p.m. on the day before school resumes after the weekend. MARK R. LECUONA may elect an option for this alternative period of weekend possession by giving written notice to SHAWN HALL LECUONA within ninety days after the parties begin to reside more than 100 miles apart. If MARK R. LECUONA makes this election, MARK R. LECUONA shall give SHAWN HALL LECUONA fourteen days' written or telephonic notice preceding a designated weekend. The weekends chosen shall not conflict with the provisions regarding Christmas, Thanksgiving, the child's birthday, and Mother's Day possession below.

2. Weekend Possession Extended by a Holiday

Except as otherwise expressly provided in this Expanded Standard Possession Order, if a weekend period of possession by MARK R. LECUONA begins on a student holiday or a teacher in-service day that falls on a Friday during the regular school term, as determined by the school in which the child is enrolled, or a federal, state, or local holiday during the summer months when school is not in session, that weekend period of possession shall begin at the time the child's school is regularly dismissed on the Thursday immediately preceding the student holiday or

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teacher in-service day and 6:00 p.m. on the Thursday immediately preceding the federal, state, or local holiday during the summer months.

Except as otherwise expressly provided in this Expanded Standard Possession Order, if a weekend period of possession by MARK R. LECUONA ends on or is immediately followed by a student holiday or a teacher in-service day that falls on a Monday during the regular school term, as determined by the school in which the child is enrolled, or a federal, state, or local holiday that falls on a Monday during the summer months when school is not in session, that weekend period of possession shall end at 6:00 p.m. on that Monday.

3. Spring Vacation in All Years - Every year, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

4. Extended Summer Possession by  
MARK R. LECUONA -

With Written Notice by April 1 - If MARK R. LECUONA gives SHAWN HALL LECUONA written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, MARK R. LECUONA shall have possession of the child for forty-two days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, with each

period of possession beginning and ending at 6:00 p.m. on each applicable day, as special the written notice. These periods of possession shall begin and end at 6:00 p.m. on each applicable day.

Without Written Notice by April 1 – If MARK R. LECUONA does not give SHAWN HALL LECUONA written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, MARK R. LECUONA shall have possession of the child for forty-two consecutive days beginning at 6:00 p.m. on June 15 and ending at 6:00 p.m. on July 27 of that year.

Notwithstanding the weekend periods of possession ORDERED for MARK R. LECUONA, it expressly ORDERED that SHAWN HALL LECUONA shall have a superior right of possession of the child as follows:

1. Summer Weekend Possession by SHAWN HALL LECUONA- If SHAWN HALL LECUONA gives MARK R. LECUONA written notice by April 15 of a year, SHAWN HALL LECUONA shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of possession by MARK R. LECUONA during MARK R. LECUONA's extended summer possession in that year, provided that if a period of possession by MARK R. LECUONA in that year exceeds thirty days, SHAWN HALL LECUONA may have possession of the child under the terms of this provision on any two nonconsecutive weekends during that period and provided that SHAWN HALL LECUONA picks up

the child from MARK R. LECUONA and returns the child to that same place and that the weekend so designated does not interfere with Father's Day possession.

2. Extended Summer Possession by SHAWN HALL LECUONA – If SHAWN HALL LECUONA gives MARK R. LECUONA written notice by April 15 of a year, SHAWN HALL LECUONA may designate twenty-one days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, during which MARK R. LECUONA shall not have possession of the child, provided that the period or periods so designated do not interfere with MARK R. LECUONA's period or periods of extended summer possession or with Father's Day possession. These periods of possession shall begin and end at 6:00 p.m. on each applicable day.

(e) Holidays Unaffected by Distance

Notwithstanding the weekend and Thursday periods of possession of MARK R. LECUONA, SHAWN HALL LECUONA and MARK R. LECUONA shall have the right to possession of the child as follows:

1. Christmas Holidays in Even-Numbered Years - In even-numbered years, MARK R. LECUONA shall have the right to possession of the child beginning at the time the child's school is dismissed for the Christmas school vacation and ending at noon on December 28, and SHAWN

HALL LECUONA shall have the right to possession of the child beginning at noon on December 28 and ending at 6:00 p.m. on the day before school resumes after that Christmas school vacation.

2. Christmas Holidays in Odd-Numbered Years - In odd-numbered years, SHAWN HALL LECUONA shall have the right to possession of the child beginning at the time the child's school is dismissed for the Christmas school vacation and ending at noon on December 28, and MARK R. LECUONA shall have the right to possession of the child beginning at noon on December 28 and ending at 6:00 p.m. on the day before school resumes after that Christmas school vacation.

3. Thanksgiving in Odd-Numbered Years - In odd-numbered years, MARK R. LECUONA shall have the right to possession of the child beginning at the time the child's school is dismissed for the Thanksgiving holiday and ending at 6:00 p.m. on the Sunday following Thanksgiving.

4. Thanksgiving in Even-Numbered Years - In even-numbered years, SHAWN HALL LECUONA shall have the right to possession of the child beginning at the time the child's school is dismissed for the Thanksgiving holiday and ending at 6:00 p.m. on the Sunday following Thanksgiving.

5. Child's Birthday - If a parent is not otherwise entitled under this Expanded Standard Possession Order to present possession of a child on the child's birthday, that parent shall have possession of the child beginning at 6:00 p.m. and ending at 8:00 p.m. on that day, provided that that parent picks up the child from the other parent's residence and returns the child to that same place.

6. Father's Day - MARK R. LECUONA shall have the right to possession of the child each

year, beginning at 6:00 p.m. on the Friday preceding Father's Day and ending at 8:00 am. on the Monday after Father's Day, provided that if MARK R. LECUONA is not otherwise entitled under this Expanded Standard Possession Order to present possession of the child, he shall pick up the child from SHAWN HALL LECUONA's residence and return the child to that same place.

7. Mother's Day - SHAWN HALL LECUONA shall have the right to possession of the child each year, beginning at the time the child's school is regularly dismissed on the Friday preceding Mother's Day and ending at the time the child's school resumes after Mother's Day, provided that if SHAWN HALL LECUONA is not otherwise entitled under this Expanded Standard Possession Order to present possession of the child, she shall pick up the child from MARK R. LECUONA's residence and return the child to that same place.

(f) Undesignated Periods of Possession

SHAWN HALL LECUONA shall have the right of possession of the child at other times not specifically designated in this expanded Standard Possession Order for MARK R. LECUONA.

(g) General Terms and Conditions

Except as otherwise expressly provided in this Expanded Standard Possession Order, the terms and conditions of possession of the child that apply regardless of the distance between the residence of a parent and the child are as follows:

1. Surrender of Child by SHAWN HALL LECUONA - SHAWN HALL LECUONA is ORDERED to surrender the child to MARK R.

LECUONA at the beginning of each period of MARK R. LECUONA's possession at the residence of SHAWN HALL LECUONA.

If a period of possession by MARK R. LECUONA begins at the time the child's school is regularly dismissed, SHAWN HALL LECUONA is ORDERED to surrender the child to MARK R. LECUONA at the beginning of each such period of possession at the school in which the child is enrolled. If the child is not in school, MARK R. LECUONA shall pick up the child at the residence of SHAWN HALL LECUONA at 6:00 p.m., and SHAWN HALL LECUONA is ORDERED to surrender the child to MARK R. LECUONA at the residence of SHAWN HALL LECUONA at 6:00 p.m. under these circumstances.

2. Surrender of Child by MARK R. LECUONA - MARK R. LECUONA is ORDERED to surrender the child to SHAWN HALL LECUONA at the residence of MARK R. LECUONA at the end of each period of possession.

If a period of possession by MARK R. LECUONA ends at the time the child's school resumes, MARK R. LECUONA is ORDERED to surrender the child to SHAWN HALL LECUONA at the end of each such period of possession at the school in which the child is enrolled or, if the child is not in school, at the residence of SHAWN HALL LECUONA at 6:00 p.m.

3. Surrender of Child by MARK R. LECUONA - MARK R. LECUONA is ORDERED to surrender the child to SHAWN HALL LECUONA, if the child is in MARK R. LECUONA's possession

Fi ORDERED to return the child to MARK R. LECUONA, if MARK R. LECUONA is entitled to possession of the child, at the end of each of SHAWN HALL LECUONA's exclusive periods of possession, at the place designated in this Expanded Standard Possession Order.

5. Personal Effects-Each conservator is ORDERED to return with the child the personal effects that the child brought at the beginning of the period of possession.

6. Designation of Competent Adult - Each conservator may designate any competent adult to pick up and return the child, as applicable. IT IS ORDERED that a conservator or a designated competent adult be present when the child is picked up or returned.

7. Inability to Exercise Possession - Each conservator is ORDERED to give notice to the person in possession of the child on each occasion that the conservator will be unable to exercise that conservator's right of possession for any specified period.

8. Written Notice - Written notice, including notice provided by electronic mail or facsimile, shall be deemed to have been timely made if received or, if applicable, postmarked before or at the time that notice is due. Each conservator is ORDERED to notify the other conservator of any change in the conservator's electronic mail address or facsimile number within twenty-four hours after the change.

9. Notice to School and SHAWN HALL LECUONA - If MARK R. LECUONA's time of possession of the child ends at the time school

resumes and for any reason the child is not or will not be returned to school, MARK R. LECUONA shall immediately notify the school and SHAWN HALL LECUONA that the child will not be or has not been returned to school.

This concludes the Expanded Standard Possession Order.

*2. Duration*

The periods of possession ordered above apply to each child the subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

*3. Termination of Orders*

The provisions of this decree relating to conservatorship, possession, or access terminate on the remarriage of MARK R. LECUONA to SHAWN HALL LECUONA unless a nonparent or agency has been appointed conservator of the children under chapter 153 of the Texas Family Code.

**Child Support**

IT IS ORDERED that MARK R. LECUONA is obligated to pay and shall pay to SHAWN HALL LECUONA child support of one thousand seven hundred ten dollars (\$1,710.00) per month, with the first payment being due and payable on ~~October 1, 2016~~ *January 1, 2017* *kc (handwritten by judge)* and a like payment being due and payable on the first day of each month thereafter until the first month following the date of the earliest occurrence of one of the events specified below:

1. any child reaches the age of eighteen years or graduates from high school, whichever occurs later, subject to the provisions for support

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beyond the age of eighteen years set out below;

2. any child marries;
3. any child dies;
4. any child enlists in the armed forces of the United States and begins active service as defined by section 101 of title 10 of the United States Code; or
5. any child's disabilities are otherwise removed for general purposes.

Withholding from Earnings

IT IS ORDERED that any employer of MARK R. LECUONA shall be ordered to withhold from earnings for child support from the disposable earnings of MARK R. LECUONA for the support of [REDACTED]

IT IS FURTHER ORDERED that all amounts withheld from the disposable earnings of MARK R. LECUONA by the employer and paid in accordance with the order to that employer shall constitute a credit against the child support obligation. Payment of the full amount of child support ordered paid by this decree through the means of withholding from earnings shall discharge the child support obligation. If the amount withheld from earnings and credited against the child support obligation is less than 100 percent of the amount ordered to be paid by this decree, the balance due remains an obligation of MARK R. LECUONA, and it is hereby ORDERED that MARK R. LECUONA pay the balance due directly to the state disbursement unit specified below.

On this date the Court signed an Income  
Withholding for Support.

Payment

IT IS ORDERED that all payments shall be made through the state disbursement unit at Texas Child Support Disbursement Unit, P.O. Box 659791, San Antonio, Texas 78265-9791, and thereafter promptly remitted to SHAWN HALL LECUONA for the support of the children. IT IS ORDERED that each party shall pay, when due, all fees charged to that party by the state disbursement unit and any other agency statutorily authorized to charge a fee.

Change of Employment

IT IS FURTHER ORDERED that MARK R. LECUONA shall notify this Court and SHAWN HALL LECUONA by U.S. certified mail, return receipt requested, of any change of address and of any termination of employment. This notice shall be given no later than seven days after the change of address or the termination of employment. This notice or a subsequent notice shall also provide the current address of MARK R. LECUONA and the name and address of his current employer, whenever that information becomes available.

Clerk's Duties

IT IS ORDERED that, on the request of a prosecuting attorney, the title IV-D agency, the friend of the Court, a domestic relations office, SHAWN HALL LECUONA, MARK R. LECUONA, or an attorney representing SHAWN HALL LECUONA or MARK R. LECUONA, the clerk of this Court shall cause a certified copy of the Income

Withholding for Support to be delivered to any employer.

Acknowledgment of Payment

By her signature on this decree, SHAWN HALL LECUONA, acknowledges that she has received child support in full for the month of October, 2016.

Health Care

1. IT IS ORDERED that MARK R. LECUONA and SHAWN HALL LECUONA shall each provide medical support for each child as set out in this order as additional child support for as long as the Court may order MARK R. LECUONA and SHAWN HALL LECUONA to provide support for the child under sections 154.001 and 154.002 of the Texas Family Code. Beginning on the day MARK R. LECUONA and SHAWN HALL LECUONA's actual or potential obligation to support a child under sections 154.001 and 154.002 of the Family Code terminates, IT IS ORDERED that MARK R. LECUONA and SHAWN HALL LECUONA are discharged from the obligations set forth in this medical support order with respect to that child, except for any failure by a parent to fully comply with those obligations before that date.

2. Definitions –

"Health Insurance" means insurance coverage that provides basic health-care services, including usual physician services, office visits, hospitalization, and laboratory, X-ray, and emergency services, that may be provided through a health maintenance organization or other

private or public organization, other than medical assistance under chapter 32 of the Texas Human Resources Code.

"Reasonable cost" means the total cost of health insurance coverage for all children for which MARK R. LECUONA is responsible under a medical support order that does not exceed 9 percent of MARK R. LECUONA's annual resources, as described by section 154.062(b) of the Texas Family Code.

"Reasonable and necessary health-care expenses not paid by insurance and incurred by or on behalf of a child" include, without limitation, any copayments for office visits or prescription drugs, the yearly deductible, if any, and medical, surgical, prescription drug, mental health-care services, dental, eye care, ophthalmological, and orthodontic charges. These reasonable and necessary health-care expenses do not include expenses for travel to and from the health-care provider or for nonprescription medication.

"Furnish" means –

- a. to hand deliver the document by a person eighteen years of age or older either to the recipient or to a person who is eighteen years of age or older and permanently resides with the recipient;
- b. to deliver the document to the recipient by certified mail, return receipt requested, to the recipient's last known mailing or residence address;
- c. to deliver the document to the recipient at the recipient's last known mailing or residence address using any person or entity whose principal business is that of a courier or deliverer of papers or

documents either within or outside the United States; or

d. to deliver the document to the recipient at the recipient's electronic mail address as follows:

MARK R. LECUONA: [REDACTED]

SHAWN HALL LECUONA: [REDACTED]

and in the event of any change in either party's electronic mail address, that party is ORDERED to notify the other party of such change in writing within twenty-four hours after the change.

3. Findings on Health Insurance

Availability- Having considered the cost, accessibility, and quality of health insurance coverage available to the parties, the Court finds:

Health insurance is available or is in effect for the children through MARK R. LECUONA's employment or membership in a union, trade association, or other organization at a reasonable cost.

IT IS FURTHER FOUND that the following orders regarding health-care coverage are in the best interest of the children.

4. Provision of Health-Care Coverage -

As additional child support, MARK R. LECUONA is ORDERED to continue to maintain health insurance for each child who is the subject of this suit that covers basic health-care services, including usual physician services, office visits, hospitalization, laboratory, X-ray, and emergency services.

MARK R. LECUONA is ORDERED to maintain such health insurance in full force and effect on each child who is the subject of this suit as

long as child support is payable for that child. MARK R. LECUONA is ORDERED to convert any group insurance to individual coverage or obtain other health insurance for each child within fifteen days of termination of his employment or other disqualification from the group insurance. MARK R. LECUONA is ORDERED to exercise any conversion options or acquisition of new health insurance in such a manner that the resulting insurance equals or exceeds that in effect immediately before the change.

MARK R. LECUONA is ORDERED to furnish SHAWN HALL LECUONA a true and correct copy of the health insurance policy or certification and a schedule of benefits within 30 days of the signing of this order. MARK R. LECUONA is ORDERED to furnish SHAWN HALL LECUONA the insurance cards and any other forms necessary for use of the insurance within 30 days of the signing of this order. MARK R. LECUONA is ORDERED to provide, within three days of receipt by him, to SHAWN HALL LECUONA any insurance checks, other payments, or explanations of benefits relating to any medical expenses for the children that SHAWN HALL LECUONA paid or incurred.

Pursuant to section 1504.051 of the Texas Insurance Code, IT IS ORDERED that if MARK R. LECUONA is eligible for dependent health coverage but fails to apply to obtain coverage for the children, the insurer shall enroll the children on application of SHAWN HALL LECUONA or others as authorized by law.

Pursuant to section 154.183(c) of the Texas Family Code, the reasonable and necessary health-care expenses of the children that are not reimbursed by health insurance are allocated as follows: SHAWN HALL LECUONA is ORDERED to pay 50 percent and MARK R. LECUONA is ORDERED to pay 50 percent of the unreimbursed health-care expenses if, at the time the expenses are incurred, MARK R. LECUONA is providing health insurance as ordered.

The party who incurs a health-care expense on behalf of a child is ORDERED to furnish to the other party all forms, receipts, bills, statements, and explanations of benefits reflecting the uninsured portion of the health-care expenses within thirty days after he or she receives them. The nonincurring party is ORDERED to pay his or her percentage of the uninsured portion of the health-care expenses either by 'paying the health-care provider directly or by reimbursing the incurring party for any advance payment exceeding the incurring party's percentage of the uninsured portion of the health-care expenses within thirty days after the nonincurring party receives the forms, receipts, bills, statements, and explanations of benefits.

These provisions apply to all unreimbursed health-care expenses of any child who is the subject of this suit that are incurred while child support is payable for that child.

5. Secondary Coverage - IT IS ORDERED that if a party provides secondary health insurance coverage for the children, both parties shall

cooperate fully with regard to the handling and filing of claims with the insurance carrier providing the coverage in order to maximize the benefits available to the children and to ensure that the party who pays for health-care expenses for the children is reimbursed for the payment from both carriers to the fullest extent possible.

6. Compliance with Insurance Company Requirements - Each party is ORDERED to conform to all requirements imposed by the terms and conditions of the policy of health insurance covering the children in order to assure the maximum reimbursement or direct payment by the insurance company of the incurred health-care expense, including but not limited to requirements for advance notice to any carrier, second opinions, and the like. Each party is ORDERED to use "preferred providers," or services within the health maintenance organization, if applicable. Disallowance of the bill by a health insurer shall not excuse the obligation of either party to make payment. Excepting emergency health-care expenses incurred on behalf of the children, if a party incurs health-care expenses for the children using "out-of-network" health-care providers or services, or fails to follow the health insurance company procedures or requirements, that party shall pay all such health-care expenses incurred absent, (1) written agreement of the parties allocating such health-care expenses or (2) further order of the Court.

7. Claims - Except as provided in this paragraph, the party who is not carrying the

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health insurance policy covering the children is ORDERED to furnish to the party carrying the policy, within fifteen days of receiving them, any and all forms, receipts, bills, and statements reflecting the health-care expenses the party not carrying the policy incurs on behalf of the children. In accordance with section 1204.251 and 1504.0SS(a) of the Texas Insurance Code, IT IS ORDERED that the party who is not carrying the health insurance policy covering the children, at that party's option, may file any claims for health-care expenses directly with the insurance carrier with and from whom coverage is provided for the benefit of the children and receive payments directly from the insurance company. Further, for the sole purpose of section 1204.251 of the Texas Insurance Code, SHAWN HALL LECUONA is designated the managing conservator or possessory conservator of the children. The party who is carrying the health insurance policy covering the children is ORDERED to submit all forms required by the insurance company for payment or reimbursement of health- care expenses incurred by either party on behalf of a child to the insurance carrier within fifteen days of that party's receiving any form, receipt, bill, or statement reflecting the expenses.

8. Constructive Trust for Payments

Received - IT IS ORDERED that any insurance payments received by a party from the health insurance carrier as reimbursement for health-care expenses incurred by or on behalf of a child shall belong to the party who paid those expenses.

IT IS FURTHER ORDERED that the party receiving the insurance payments is designated a constructive trustee to receive any insurance checks or payments for health-care expenses paid by the other party, and the party carrying the policy shall endorse and forward the checks or payments, along with any explanation of benefits received, to the other party within three days of receiving them.

9. WARNING-A PARENT ORDERED TO PROVIDE HEALTH INSURANCE OR TO PAY THE OTHER PARENT ADDITIONAL CHILD SUPPORT FOR THE COST OF HEALTH INSURANCE WHO FAILS TO DO SO IS LIABLE FOR NECESSARY MEDICAL EXPENSES OF THE CHILDREN, WITHOUT REGARD TO WHETHER THE EXPENSES WOULD HAVE BEEN PAID IF HEALTH INSURANCE HAD BEEN PROVIDED, AND FOR THE COST OF HEALTH INSURANCE PREMIUMS OR CONTRIBUTIONS, IF ANY, PAID ON BEHALF OF THE CHILDREN.

Miscellaneous Child Support Provisions  
Support as Obligation of Estate

IT IS ORDERED that the provisions for child support in this decree shall be an obligation of the estate of MARK R. LECUONA and shall not terminate on the death of MARK R. LECUONA. Payments received for the benefit of the children, including payments from the Social Security Administration, Department of Veterans Affairs or other governmental agency or life insurance proceeds, annuity payments, trust distributions, or

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retirement survivor benefits, shall be a credit against this obligation. Any remaining balance of the child support is an obligation of MARK R. LECUONA's estate. *MR. LECUONA shall ensure that he continue to maintain a life insurance policy insuring his life in the amount of \$100,000 or the amount of remaining child support obligation, whichever is lower, until his obligation to pay child support for the benefit of minor child is discharged or terminated under this or future order of this Court.* (handwritten changes by judge).

Termination of Orders on Remarriage of Parties  
but Not on Death of Obligee

The provisions of this decree relating to current child support terminate on the remarriage of MARK R. LECUONA to SHAWN HALL

LECUONA unless a nonparent or agency has been appointed conservator of the children under chapter 153 of the Texas Family Code. An obligation to pay child support under this decree does not terminate on the death of SHAWN HALL LECUONA but continues as an obligation to

Medical Notification

Each party is ORDERED to inform the other party within one hour of any emergency involving a medical injury or condition of the child requiring medical care, emergency room, or hospital admittance. In the event of an urgent care condition, each party is ORDERED to inform the other party within four hours of the medical injury or onset of the condition.

IT IS FURTHER ORDERED the parent in

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possession of the child shall notify the other parent of the situation and location of the child as soon as practicable following the injury or onset of the condition, but in no event more than one hour later.

Within 30 days after the Court signs this decree, each party is ORDERED to execute –

1. all necessary releases pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and 45 C.F.R. section 164.508 to permit the other conservator to obtain health-care information regarding the children; and

2. for all health-care providers of the children, an authorization for disclosure of protected health information to the other conservator pursuant to the HIPAA and 45 C.F.R. section 164.508.

Each party is further ORDERED to designate the other conservator as a person to whom protected health information regarding the children may be disclosed whenever the party executes an authorization for disclosure of protected health information pursuant to the HIPAA and 45 C.F.R. section 164.508.

#### **Information Regarding Parties**

The information required for each party by section 105.006(a) of the Texas Family Code is as follows:

Name: MARK R. LECUONA

Social Security:

Driver's license number:

Current residence address:

Mailing address:

Home telephone number:

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Name of employer:  
Address of employer:  
Work telephone:  
Name: SHAWN HALL LECUONA  
Social Security number:  
Driver's license number:  
Current residence address:  
Mailing address:  
Home telephone number:  
Name of employer:  
Address of employment:  
Work telephone number:

**Required Notices**

EACH PERSON WHO IS A PARTY TO THIS ORDER IS ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY OF ANY CHANGE IN THE PARTY'S CURRENT RESIDENCE ADDRESS, MAILING ADDRESS, HOME TELEPHONE NUMBER, NAME OF EMPLOYER, ADDRESS OF EMPLOYMENT, DRIVER'S LICENSE NUMBER, AND WORK TELEPHONE NUMBER. THE PARTY IS ORDERED TO GIVE NOTICE OF AN INTENDED CHANGE IN ANY OF THE REQUIRED INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY ON OR BEFORE THE 60TH DAY BEFORE THE INTENDED CHANGE. IF THE PARTY DOES NOT KNOW OR COULD NOT HAVE KNOWN OF THE CHANGE IN SUFFICIENT TIME TO PROVIDE 60-DAY NOTICE, THE PARTY IS ORDERED TO GIVE NOTICE OF THE CHANGE ON OR BEFORE THE FIFTH DAY AFTER THE DATE THAT THE PARTY KNOWS OF THE CHANGE.

THE DUTY TO FURNISH THIS INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY CONTINUES AS LONG AS ANY PERSON, BY VIRTUE OF THIS ORDER, IS UNDER AN OBLIGATION TO PAY CHILD SUPPORT OR ENTITLED TO POSSESSION OF OR ACCESS TO A CHILD.

FAILURE BY A PARTY TO OBEY THE ORDER OF THIS COURT TO PROVIDE EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY WITH THE CHANGE IN THE REQUIRED INFORMATION MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

Notice shall be given to the other party by delivering a copy of the notice to the party by registered or certified mail, return receipt requested. Notice shall be given to the Court by delivering a copy of the notice either in person to the clerk of this Court or by registered or certified mail addressed to the clerk at Travis County District Clerk, PO BOX 679003, Austin, Texas 78767. Notice shall be given to the state case registry by mailing a copy of the notice to State Case Registry, Contract Services Section, MC046S, P.O. Box 12017, Austin, Texas 78711-2017.

NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE

EFFORTS TO ENFORCE THE TERMS OF CHILD CUSTODY SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CLAIM, CIVIL OR OTHERWISE, REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THE ORDER THAT RELATE TO CHILD CUSTODY. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS \$10,000.

**Warnings to Parties**

WARNINGS TO PARTIES: FAILURE TO OBEY A COURT ORDER FOR CHILD SUPPORT OR FOR POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

FAILURE OF A PARTY TO MAKE A CHILD SUPPORT PAYMENT TO THE PLACE AND IN THE MANNER REQUIRED BY A COURT ORDER MAY RESULT IN THE PARTY'S NOT RECEIVING CREDIT FOR MAKING THE PAYMENT.

FAILURE OF A PARTY TO PAY CHILD SUPPORT DOES NOT JUSTIFY DENYING THAT PARTY COURT-ORDERED POSSESSION OF OR ACCESS TO A CHILD. REFUSAL BY A PARTY TO ALLOW POSSESSION OF OR ACCESS TO A CHILD DOES NOT JUSTIFY FAILURE TO PAY COURT-ORDERED CHILD SUPPORT TO THAT PARTY.

**Division of Marital Estate**

The Court finds that the following is a just and right division of the parties' marital estate, having due regard for the rights of each party and the children of the marriage.

**Property to Husband**

IT IS ORDERED AND DECREED that the husband, is awarded the following as his sole and separate property, and the wife is divested of all right, title, interest, and claim in and to that property:

H-1. The funds on deposit, together with accrued but unpaid interest, in the following banks, savings institutions, or other financial institutions:

a. Wells Fargo, Account number

X [REDACTED]

b. Wells Fargo, Account number

X [REDACTED]

c. Wells Fargo, Account number

X [REDACTED], but \$42,488 shall be transferred into wife's First Lockhart Bank Account No. ending X [REDACTED]. kc (handwritten changes by judge).

H-2. All sums, whether matured or unmatured, accrued or unaccrued, vested or otherwise, together with all increases thereof, the proceeds therefrom, and any other rights related to any profit-sharing plan, retirement plan, Keogh

plan, pension plan, employee stock option plan, 401(k) plan, employee savings plan, accrued unpaid bonuses, disability plan, or other benefits existing by reason of the husband's past, present, or future employment, including but not limited to:

- a. One Gas Inc. 401 (K) Plan

H-3. All individual retirement accounts, simplified employee pensions, annuities, and variable annuity life insurance benefits in the husband's name, including but not limited to:

- a. Charles Schwab & Co.,  
Account number x [REDACTED]
- b. Charles Schwab & Co.,  
Account number x [REDACTED]
- c. Charles Schwab & Co.,  
Account number x [REDACTED] kc  
(handwritten changes by  
judge)

H-4. The following stocks, bonds, and securities, together with all dividends, splits, and other rights and privileges in connection with them:

- a. 2435 shares of ONE GAS
- b. 1255.57 shares of ONEOK
- c. US Etrade, Account number  
x [REDACTED]

H-5. The 2007 Honda Accord motor vehicle, vehicle identification number together with all prepaid insurance, keys, and title documents.

H-6. Southwest Airlines Rapid Rewards Account x

H-7. Stock options in Etrade (OGS STOCK PLAN [REDACTED])- Vest date 2/18/17

H-8. Stock options in Etrade (OGS STOCK

PLAN - [REDACTED]- Vest date 2/17/18

H-9. Retirement Plan for Employees of  
ONEOK.

H-10. *Any other Retirement Accounts  
associated with his prior employment. kc  
(handwritten changes by judge)*

H-11. *Any award or miles associated with his  
name. kc (handwritten changes by judge)*

H-12. *Any and all household furnishings  
personal property in his possession. kc (handwritten  
changes by judge)*

Confirmation of Separate Property

IT IS ORDERED AND DECREED that the husband, MARK R. LECUONA, is awarded the following as his sole and separate property, and the wife, SHAWN HALL LECUONA, is divested of all right, title, interest and claim in and to that property: The Estate of Ernesto Lecuona.

Property to Wife

IT IS ORDERED AND DECREED that the wife, is awarded the following as her sole and separate property, and the husband is divested of all right separate property, and the husband is divested of all right, title, interest, and claim in and to that property:

W-1. The following real property, including but not limited to any escrow funds, prepaid insurance, utility deposits, keys, house plans, home security access and code, garage door opener, warranties and service contracts, and title and closing documents:

LOT 13, BLOCK H, Village Park 3 at  
Travis County

[REDACTED]

Austin, Texas

W-2. The funds on deposit, together with accrued but unpaid interest, in the following banks, savings institutions, or other financial institutions:

- a. ~~Communications FCU account number~~  
[REDACTED] *kc (handwritten changes by judge)*
- a. Wells Fargo, Account number x[REDACTED]
- b. ~~Wells Fargo First Lockhart National Bank, kc (handwritten changes by judge)~~  
account number [REDACTED]
- c. ~~Wells Fargo First Lockhart National Bank, kc (handwritten changes by judge)~~  
Account x[REDACTED]
- d. *First Lockhart National Bank, number x[REDACTED] kc (handwritten changes by judge)*

W-3. The individual retirement accounts, simplified employee pensions, annuities, and variable annuity life insurance benefits in the wife's name, including but not limited to:

- a. Charles Schwab & Co., Account number x[REDACTED]
- b. Charles Schwab & Co., Account number x[REDACTED]
- c. Charles Schwab & Co., Account number x[REDACTED]
- d. ~~Charles Schwab & Co., Account number x[REDACTED] kc (handwritten changes by judge)~~
- e. Charles Schwab & Co., Account

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number x [REDACTED]

f. Charles Schwab & Co., Account number x [REDACTED]

g. *Any other retirement accounts associated with employment.*  
kc (handwritten changes by judge)

W-4. The 2015 Honda CRV-LX motor vehicle, vehicle identification number, together with all prepaid insurance, keys, and title documents.

W-5. 100 percent of her interest in the PLLC known as "Lecuona Law, PLLC", including but not limited to all furniture, fixtures, machinery, equipment, inventory, cash, receivables, accounts, goods, and supplies; all personal property used in connection with the operation of the business; and all rights and privileges, past, present, or future, arising out of or in connection with the operation of the business.

W-6. *Any and all interest and property owned and associated with "Lecuona Life Ministries", and/or "Burning For Quote", including any intellectual property owned by the parties, if any.* kc (handwritten changes by judge).

W-7. \$42,488 from Wells Fargo Account # x [REDACTED] (as indicated in H-1 c above). kc (handwritten changes by judge).

W-8. Family dog, "Macaroni & Cheese". kc (handwritten changes by judge).

*W-9. All personal property in her possession.  
kc (handwritten changes by judge)*

*W-10. Any miles or award programs in her  
own name. kc (handwritten changes by judge)*

Division of Debt

Debts to Husband

IT IS ORDERED AND DECREED that the husband shall pay, as a part of the division of the estate of the parties, and shall indemnify and hold the wife and her property harmless from any failure to so discharge, these items:

H-1. The following debts, charges, liabilities, and obligations:

- a. Debt owed to Wells Fargo, Account number x [REDACTED]

Debts to Wife

IT IS ORDERED AND DECREED that the wife, shall pay, as a part of the division of the estate of the parties, and shall indemnify and hold the husband and his property harmless from any failure to so discharge, these items:

W-1. The following debts, charges, liabilities, and obligations:

a. *Any property tax debt associated with the property awarded to wife; kc (handwritten changes by judge)*

- b. Debt owed to Capital One, Account number x [REDACTED]
- c. Debt owed to Sunset Valley Vet Clinic
- d. Debt owed to [REDACTED] School [REDACTED], Account number x4888

*Effective December 1, 2016, the parties are*

*discharged from any obligation to insure property awarded to the other party. kc (handwritten changes by judge)*

Notice

IT IS ORDERED AND DECREED that each party shall send to the other party, within three days of its receipt, a copy of any correspondence from a creditor or taxing authority concerning any potential liability of the other party.

Attorney's Fees

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 children, each party shall be responsible for his or her own attorney's fees, expenses, and costs incurred as a result of legal representation in this case.

Treatment/Allocation of Community Income for Year of Divorce

IT IS ORDERED AND DECREED that, for the calendar year 2016, each party shall file an individual income tax return in accordance with the Internal Revenue Code.

IT IS ORDERED AND DECREED that for calendar year 2016, each party shall indemnify and hold the other party and his or her property harmless from any tax liability associated with the reporting party's individual tax return for that year unless the parties have agreed to allocate their tax liability in a manner different from that reflected on their returns.

IT IS ORDERED AND DECREED that each party shall furnish such information to the other

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party as is requested to prepare federal income tax returns for 2016 within thirty days of receipt of a written request for the information, and in no event shall the available information be exchanged later than March 1, 2017. As requested information becomes available after that date, it shall be provided within ten days of receipt.

IT IS ORDERED AND DECREED that all payments made to the other party in accordance with the allocation provisions for payment of federal income taxes contained in this Final Decree of Divorce are not deemed income to the party receiving those payments but are part of the property division and necessary for a just and right division of the parties' estate.

Credit Cards

IT IS ORDERED AND DECREED that MARK R. LECUONA is granted exclusive use of the following credit card and SHAWN HALL LECUONA is enjoined and prohibited from using or incurring any indebtedness on that card:

Wells Fargo x [REDACTED]

IT IS ORDERED AND DECREED that SHAWN HALL LECUONA is granted exclusive use of the following credit card and MARK R. LECUONA is enjoined and prohibited from using or incurring any indebtedness on this card:

Capital One x [REDACTED]

Transfer and Delivery of Property

MARK R. LECUONA is ORDERED to appear in the law offices of Samuel E. Bassett at 1100 Guadalupe Street, Austin, TX 78701, before 5:00 p.m. on November 30, 2016, and to execute,

have acknowledged, and deliver to Samuel E. Bassett these instruments:

1. Special Warranty Deed.

This decree shall serve as a muniment of title to transfer ownership of all property awarded to any party in this Final Decree of Divorce.

Property of the Children

IT IS ORDERED the following accounts are awarded to the children of this marriage:

1. Wells Fargo x [REDACTED] ( [REDACTED] ).
2. Wells Fargo x [REDACTED] ( [REDACTED] ).
3. Christian Community Credit Union x [REDACTED] ( [REDACTED] ).
4. 2005 Honda Pilot ( [REDACTED] ).
5. Texas Guaranteed Tuition Plan x [REDACTED] (P.E.L.)
6. College Savings Iowa x [REDACTED] (W.A.L.)
7. Charles Schwab x [REDACTED]
8. US Savings Bond ( [REDACTED] )
9. Vision 2016 First Lockhart Bank [REDACTED]  
x [REDACTED]

Court Costs

IT IS ORDERED AND DECREED that costs of court are to be borne by the party who incurred them.

Discharge from Discovery Retention Requirement

IT IS ORDERED AND DECREED that the parties and their respective attorneys are discharged from the requirement of keeping and storing the documents produced in this case in accordance with rule 191.4(d) of the Texas Rules of Civil Procedure.

Decree Acknowledgment

Petitioner Mark R. Lecuona and Respondent, SHAWN HALL LECUONA, each acknowledge that before signing the Final Decree of Divorce they have read the Final Decree of Divorce fully and completely, have had the opportunity to ask any questions regarding the same, and fully understand the contents of the Final Decree of Divorce constitute a full and complete resolution of the case. Petitioner and Respondent acknowledge that they have voluntarily affixed their signatures to this Final Decree of Divorce, believing this agreement to be a just and right division of the marital debt and assets, and state that they have not signed by virtue of any coercion, any duress, or any agreement other than those specifically set forth in this Final Decree of Divorce.

**Indemnification**

Each party represents and warrants that he or she has not incurred any outstanding debt, obligation, or other liability on which the other party is or may be liable, other than those described in this decree. Each party agrees and IT IS ORDERED that if any claim, action, or proceeding is hereafter initiated seeking to hold the party not assuming a debt, an obligation, a liability, an act or omission of the other party, that other party will, at his or her sole expense, defend the party not assuming the debt, obligation, liability, act, or omission of the other party against any such claim or demand, whether or not well founded and will indemnify the party not assuming the debt, obligation, liability, act, or omission of the other

party and hold him or her harmless from all damages resulting from the claim or demand.

Damages, as used in this provision, includes any reasonable loss, cost, expense, penalty, and other damage, including, without limitation attorney's fees and other costs and expenses reasonably and necessarily incurred in enforcing this indemnity. *kc (handwritten by judge)*

~~IT IS ORDERED~~ that the indemnifying party will reimburse the indemnified party, on demand, for any payment made by the indemnified party at any time after the entry of the divorcee decree to satisfy any judgment of any court of competent jurisdiction or in accordance with a bona fide compromise or settlement of claims, demands, or actions for any damages to which this indemnity relates.

The parties agree and ~~IT IS ORDERED~~ that each party will give the other party prompt written notice of any litigation threatened or instituted against either party that might constitute the basis of a claim for indemnity under this decree.

#### Clarifying Orders

Without affecting the finality of this Agreed Final Decree of Divorce, this Court expressly reserves the right to make orders necessary to clarify and enforce this decree.

#### Relief Not Granted

~~IT IS ORDERED AND DECREED~~ that all relief requested in this case and not expressly granted is denied. This is a final judgment, for which let execution and all writs and processes necessary to

enforce this judgment issue. This judgment finally disposes of all claims and all parties and is appealable.

**Date of Judgment**

This divorce judicially PRONOUNCED AND RENDERED in court at Austin, Travis County, Texas, on September 29, 2016 and further noted on the court's docket sheet on the same

date, but signed on *November 30, 2016*.

*(handwritten by judge)*

*Judge's signature (handwritten by judge)*

---

JUDGE PRESIDING  
**KARINCRUMP**

APPROVED AS TO FORM ONLY:

Minton, Burton, Bassett & Collins, P.C.

1100 Guadalupe Street

Austin, TX 78701

Tel: (512) 476-4873

Fax: (512) 479-8315

By: \_\_\_\_\_

Samuel E. Bassett

Attorney for Petitioner

State Bar No. 01894100

[sbassett@mbfc.com](mailto:sbassett@mbfc.com)

APPROVED AND CONSENTED TO AS TO  
BOTH FORM AND SUBSTANCE:

---

MARK R. LECUONA, Petitioner

---

SHAWN HALL LECUONA, Respondent

**APPENDIX E**

NOTICE: THIS DOCUMENT  
CONTAINS SENSITIVE DATA

NO. D-1-FM-14-002342

IN THE MATTER OF § IN THE DISTRICT COURT  
THE MARRIAGE OF §

§  
MARK R. LECUONA §  
AND §250<sup>TH</sup> JUDICIAL DISTRICT

SHAWN HALL §  
LECUONA §

§  
AND IN THE §  
INTEREST OF §  
[REDACTED] AND [REDACTED] §

MINOR CHILDREN § TRAVIS COUNTY, TEXAS

**FINDINGS OF FACT AND**  
**CONCLUSIONS OF LAW**

On September 29, 2016, the Court held a Final Merits trial in the above captioned and styled cause. On November 30, 2016, the Court signed a Final Decree of Divorce. Respondent Shawn Hall Lecuona has requested findings of fact and conclusions of law pursuant to Section 6.711 of the Texas Family Code and Rule 296 of the Texas Rules of Civil Procedure.

To the extent that it is determined that findings of fact and conclusions of law are required or necessary, in compliance with Rule 297 of the Texas Rules of Civil Procedure, this Court makes the following findings of fact. To the extent that any finding of fact made by this Court should properly be considered a conclusion of law, and to the extent that any conclusion of law made by this Court should

properly be considered a finding of fact, it is the express intent of the Court that any statement identified herein as a finding of fact also be deemed a conclusion of law and any statement identified herein as a conclusion of law shall also be deemed a finding of fact.

After considering the case file, the pleadings, the evidence presented and admitted, the testimony of the parties, the parties' agreements, the arguments and briefs from counsel, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. The parties to the lawsuit are Petitioner, Mark R. Lecuona, and Respondent, Shawn Hall Lecuona.
2. The parties were married on March 23, 1994 and ceased to live together as husband and wife on or about March of 2008.
3. The parties were pronounced divorced in open court on September 29, 2016.
4. The Court finds that at the time this suit was filed, Mark R. Lecuona had been a domiciliary of Texas for the preceding six-month period and a resident of the county in which this suit was filed for the preceding ninety-day period.
5. The Court finds that the marriage has become insupportable because of discord or conflict of personalities between the parties that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

*Parenting Plan Provisions*

6. The Court finds there is one minor child born during the marriage and now under eighteen years of age or otherwise entitled to support, [REDACTED]

7. The Court finds that the provisions in the Final Decree of Divorce signed on November 30, 2016 relating to the rights and duties of the parties with relation to the child are in the child's best interest.

8. The Court finds that appointing Petitioner and Respondent joint managing conservators of the child would be in the child's best interest.

9. In reaching its conclusion that Respondent should be awarded the exclusive right to designate the primary residence in Travis County, the Court finds that Respondent's testimony indicated it was her wish to remain in the residence located in Travis County, Texas with minor child.

10. In reaching its conclusion that the geographical restriction should be limited to Travis County, Texas, the Court makes the following findings based upon the evidence:

a. Respondent's testimony indicated it was her wish to remain at the residence located in Travis County, Texas with her minor daughter;

b. It is important for Petitioner to have regular and consistent visits with his daughter;

c. Based upon the Court's interview with the child *in chambers*, it was important to the child that she have regular and consistent visits with Petitioner.

d. It is important for the welfare of the child to keep Petitioner and Respondent located as close together as possible; and

e. It is not in the best interest of the child for the child to have to spend significant time traveling in order to have access to and quality time with both Petitioner and Respondent.

f. The Court finds that the provisions in the Final Decree of Divorce signed on November 30, 2016 relating to possession of and access to the child are in the child's best interest.

11. The Court finds that awarding Petitioner an expanded standard possession order would be in the child's best interest.

12. The Court finds that the provisions in the Final Decree of Divorce signed on November 30, 2016 relating to child support are in the child's best interest.

13. In reaching its conclusion that child support in the amount of \$1,710.00 per month would be in the child's best interest, the Court makes the following findings based upon the evidence:

a. The net resources of Mark R.

Lecuona per month are \$ [REDACTED]

b. The amount of child support payments per month that is computed if the percentage guidelines of section 154.125 of the Texas Family Code are applied to the first \$8,550.00 of Mark R. Lecuona's net resources is \$1,710.00;

c. The child has no special needs;

d. There are no special circumstances to warrant the award of child support above the amount of \$1,710.00 per month and Respondent did not dispute the reasonableness of such amount; and

e. Respondent was awarded a disproportionate amount of the community estate in order to provide for the needs of the child during her time of possession.

14. The Court finds that the child communicated to the judge in chambers what the child's needs were

and this communication in chambers was taken into consideration when the Final Decree of Divorce was signed on November 30, 2016.

15. The Court finds that the provisions in the Parenting Plan of the Final Decree of Divorce signed on November 30, 2016 optimize the development of a close and continuing relationship between each party and the child.

16. The Court finds that as a result of pretrial filings by both parties admitted at trial without objection by either party, there remained no dispute as to the community or separate characterization of all the assets and/or liabilities of the parties. Other than to confirm the Estate of Ernesto Lecuona as the separate property of Mark Lecuona, there was no other evidence presented to substantiate any other claims of a separate property estate.

17. The award of the debts and liabilities in the Final Decree of Divorce signed on November 30, 2016 are part of the just and right division of the community estate.

18. The Court finds that the parties are obligated to pay any insurance policies that follow the property that they were awarded beginning on December 1, 2016.

19. The Court finds the parties are no longer obligated to maintain insurance on any property that they did not receive in the distribution of property in this trial.

20. The Court finds that any taxes that follow the property that each party was awarded are the obligation of the person to whom the property was awarded.

21. The Court finds there was no evidence at trial of a \$40,000.00 debt incurred by Respondent.

22. The Court finds that the debt and contractual obligation to Regents School of Austin was awarded to Respondent as part of the fair and just division of the community estate.

23. The division and allocation of each party's assets, liabilities, claims, and offsets as set forth in the Final Decree of Divorce signed on November 30, 2016 is a fair and just allocation of the community estate. The Court considered the age of the Respondent and the nature of Respondent's employment in making this division.

24. The Court finds that in order 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, each party shall be responsible for his or her own attorney's fees, expenses, and costs incurred as a result of legal representation in this case.

25. All findings of fact that would be more appropriately classified as conclusions of law are hereby adopted as such.

#### **CONCLUSIONS OF LAW**

26. The Original Petition for Divorce filed by Petitioner is in due form and contains all the allegations required by law.

27. In accordance with section 153.001 of the Texas Family Code, it is the public policy of Texas to assure that a child will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child, to provide a safe, stable, and nonviolent environment for the child, and to encourage parents to share in the rights and

65a

duties of raising their child after the parents have separated or dissolved their marriage.

28. This Court has jurisdiction of the parties, of the children, and of the subject matter of this case.

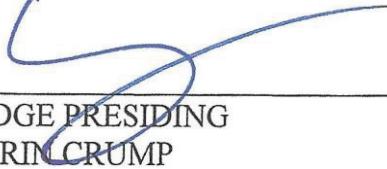
29. All legal prerequisites to granting a divorce have been met.

30. The divorce is granted on the ground of insupportability.

31. The division of the property of Petitioner Respondent effected by the final judgment is just and right, having due regard for the rights of each party and the children of the marriage, irrespective of the characterization of any item of property as either community or separate.

32. All conclusions of law that would be more appropriately classified as findings of fact are hereby adopted as such.

SIGNED on January 9<sup>th</sup>, 2017. (*handwritten by judge*)



\_\_\_\_\_  
UDGE PRESIDING  
KARIN CRUMP

**APPENDIX F**

NOTICE: THIS DOCUMENT  
CONTAINS SENSITIVE DATA

NO. D-1-FM-14-002342

IN THE MATTER OF § IN THE DISTRICT COURT  
THE MARRIAGE OF §

§  
MARK R. LECUONA §  
AND §250<sup>TH</sup> JUDICIAL DISTRICT

SHAWN HALL §  
LECUONA §

§  
AND IN THE §  
INTEREST OF §  
[REDACTED] AND [REDACTED] §

MINOR CHILDREN § TRAVIS COUNTY, TEXAS

**RESPONDENT'S COUNTERCLAIM FOR  
DECLARATORY JUDGMENT AND MOTION  
FOR PROTECTIVE ORDER PURSUANT TO  
TRCP RULE 192.6**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES SHAWN HALL LECUONA, Respondent in the above entitled and numbered cause, now herein called "Counter-Petitioner", and makes and files this Counterclaim, including Exhibit A, Affidavit of Shawn Hall Lecuona and Motion for Protective Order, against MARK R. LECUONA, herein called "Counter-Respondent", respectfully showing to the Court as grounds therefore the following:

I.

BACKGROUND

An Original Petition was filed in this Cause

asserting “grounds for divorce” that “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”. An Original Answer, General Denial and prayer for general relief was filed in response. Petitioner’s Request for Disclosure, Petitioner’s Request for Production and Petitioner’s Written Interrogatories have been served and are pending before the Court. Responses are due September 28, 2015. In response to the above actions, Counter-Petitioner files this counterclaim:

## II.

### COUNTERCLAIM

NOW COMES Counter-Petitioner and brings this counterclaim seeking a declaratory judgment to bar enforcement of a suit for divorce brought pursuant to Sections 1.101 and 2.601 *et. seq.* of the Texas Family Code, on the grounds that such suit is unconstitutional under The Free Exercise and The Establishment Clauses of the First Amendment of the United States Constitution, (hereafter The Religion Clauses) and the Freedom of Worship Clause in Article 1, section 6 of the Texas Constitution.

Pursuant to TEX. CIV. PRAC. & REM. CODE §§ 37.001 *et. seq.* and 110.003(a) (“The Uniform Declaratory Judgments Act”) Counter-Petitioner pleads that the Court find as follows:

1. An affirmative declaration that Counter-Petitioner has protected “rights of conscience in matters of religion”, in particular, the identity of

**the Lecuona marriage and the conduct of the Lecuona marriage, are protected under one or more of the following: the Religion Clauses of the First Amendment of the United States Constitution, Freedom of Worship Clause in Article I, Section 6.001 of the Texas Constitution, Sections 1.101 and 2.601 *et. seq.* of the Texas Family Code and Section 110.003 of the Texas Religious Freedom Restoration Act.**

2. An affirmative declaration that enforcement of divorce proceedings under Section 1.003 of the Texas Family Code in this Cause violates the rights of conscience in the Lecuona marriage in matters of religion substantially burdening the exercise thereof, in violation of guaranteed rights to freedom of religion guaranteed under one or more of the Religion Clauses of the First Amendment of the United States Constitution, Freedom of Worship Clause Article I, Section 6 of the Texas Constitution, §§ 1.101 and 2.601 *et. seq.* of the Texas Family Code, and Section 110.003 of the Texas Religious Freedom Restoration Act. There is no compelling state interest that would justify the substantial burden effectuated by the state's enforcement of a divorce proceeding under Section 1.003 is not narrowly

**Tailored to meet any state interest.**

Counter-Petitioner therefor moves this Court to issue affirmative declarations in favor of Counter-Petitioner, and such other equitable relief to which Counter-Petitioner is entitled.

**III.****STANDARD OF REVIEW FOR GRANTING  
DECLARATORY JUDGMENT**

Pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code subsection “(a) A person ... whose rights, status, or other legal relations are affected by a statute” ... may have determined *any* question of construction or validity arising under the ...statute... and obtain a *declaration of rights*, status, or other legal relations thereunder.” Tex. Civ. Prac. & Rem. Code § 37.004 (emphasis added). A counterclaim based on the Declaratory Judgment Act is properly raised if the counterclaim alleges a cause of action independent of the

petitioner’s claim. *McCalla v. Ski River Development Inc.*, 239 S.W. 3d 374 (Tex. App.—Waco 2007, no pet.). A suit for affirmative relief in a divorce proceeding is proper where a party seeks “an interpretation of the relationship which would have the effect of defining the obligations of these parties under that relationship for the foreseeable future”. *Georgiades v. Di Ferrante*, 871 S.W.2d 878 (Tex. App.—Houston (14<sup>th</sup> Dist.) 1990), 1994, writ denied). The appellate court in *Georgiades* found its holding to “comport with the rationale used by the Texas Supreme Court in the *BHP Petroleum* case”, in relation to that which had already been asserted, or could be asserted, in the future.” *BHP Petroleum Co., Inc. v. Millard*, 800

S.W.2d 838, 841, 842 (Tex. 1990).

IV.

AUTHORITIES FOR GRANTING AFFIRMATIVE  
RELIEF

CONSTITUTIONAL PROHIBITION AGAINST  
STATE REGULATION OF RIGHTS OF  
CONSCIENCE IN MATTERS OF RELIGION

Counter-Petitioner asserts that a person has a fundamental absolute right to their religious beliefs in establishing the identity of the marriage and in the free exercise in the conduct of their marriage. The Religion Clauses provide that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. Hereafter, in this counterclaim, the Clauses in the First Amendment of the U.S. Constitution relied upon by Counter-Petitioner are The Establishment Clause and The Free Exercise Clause. U.S. Const. amend. 1. "Through the Fourteenth Amendment doctrine of incorporation these provisions apply to states". *HEB Ministries, Inc., v. Texas Higher Education Coordinating Board*, 235 S.W.3d 627 (Tex. 2007). Citing *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). Additionally, Article I, Section 6 and Section 7 of the Texas Constitution are equivalent provisions that enshrine even stronger protections of religious liberty. Id. at 628. The U.S. Supreme Court has held that the First Amendment bars application of neutral, generally applicable law(s) to religiously motivated action when the action involved the Free Exercise Clause in conjunction with other constitutional protections. *Employment Div. v. Smith*, 494 U.S. 872, 873 (1990).

#### A. The Establishment Clause

Under the Establishment Clause, states may not prefer religion to irreligion, nor may the government exhibit hostility towards religion. The government is limited in its authority to inquire into an individual's religious beliefs under this clause: "[s]ince the government cannot determine what a church should be, it cannot determine the qualifications a cleric should have or whether a particular person has them." *HEB Ministries, Inc., v. Texas Higher Education Coordinating Board*, 235 S.W.3d 627, 627 (Tex. 2007) (emphasis added).

#### B. The Free Exercise Clause

The Free Exercise Clause protects a person's free exercise of religion from undue state infringement by protecting the "right to hold religious beliefs and opinions as absolute". In the United States, one's freedom of religious belief is absolute, subject only to regulation for reasons of public safety; and then however, to the extent it does not unduly infringe the protected freedom. *Cantwell v. Connecticut*, 310 U.S. 296, 303-304 (1940). State legislatures are barred by the U.S. Constitution from dictating which religious beliefs to support or hinder through enforcing laws that violate the free exercise of one's religious beliefs. The United States and the State of Texas both "prohibit the government from interfering with this liberty, as the state has no authority to regulate religious beliefs". "The Free Exercise Clause erects an unqualified prohibition against government interference with beliefs". *State v. Corpus Christi People's Baptist Church, Inc.* 683 S.W.2d 692, 695 (Tex. 1984), and protects certain conduct motivated

by religious beliefs. *United States v. Lee*, 455 U.S. 252 (1982). The Texas Constitution is more expansive than the U.S. Constitution in protecting the rights of its citizens from undue state infringement of their right to worship Almighty God according to the dictates of their own consciences. *Davenport v. Garcia*, 834 S.W.2d 4, 10 (Tex. 1992).

#### A. The Freedom of Worship Clause.

Article 1, Section 6.001, of the Texas Constitution bestows an “affirmative right” upon all of its citizens stating:

*“All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. [...] No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion,”* TEX. CONST. art. I, § 6(a)-(c).

The State of Texas acknowledges an “affirmative right” that is stronger than the protections found in the First Amendment. *Waite v. Waite*, 64 S.W.3d 217, (Tex. App. Houston—[14<sup>th</sup> Dist.] 2001, pet. denied) (Frost concurring and dissenting).

The written Word of God (also referred to as the Holy Bible) containing the Law of God, is a learned treatise which may be examined and relied upon for judicial review in determining rights of conscience in matters of religion, in particular in reviewing the constitutionality of a state statute and its effect on the citizens’ right to worship Almighty God. Under the Texas Rules of Evidence, Rule 803(18), a learned treatise is not excluded by the Hearsay Rule and thus reliable for this Court to review for interpreting the exercise of religious beliefs. TEX. R. EVID. 803(18).

This matter does not involve a review of church government, and thus is not an ecclesiastic matter, but rather the exercise of a married couple's rights of conscience in individual matters of identity and marital conduct as defined through the exercise of their religious beliefs which are substantially burdened by the compulsory Texas no-fault divorce law. Therefore it is appropriate to consider the Word of God in regards to examining Counter-Petitioner's rights of conscience. "While the civil court exercises no role in determining ecclesiastic questions [involving church government, (emphasis added)], [i]t merely settles a dispute as to identity, which in turn necessarily settles a dispute involving property rights." *Presbytery of the Covenant v. First Presbyterian Church of Paris, Inc.*, 552 S.W. 2d 865, 871 (Tex. Civ. App.—Texarkana 1977, no writ).

Other states in the U.S. have also recognized the importance of taking judicial notice of The Bible. In *Burns v. Burns* 223 N.J. Super. 219, 225 (1987) the Superior Court of New Jersey took judicial notice of The Bible in finding it to be reliable as a "learned treatise containing the law of Moses and Israel" in examining and interpreting the religious beliefs of a Jewish couple. In the Holy Bible it is written that God gave the Law to man for good. *Romans* 7:16 (Amplified). And it is written that The Law therefore is holy, and each commandment is holy and just and good. *Romans* 7:12 (Amplified). The Law still exists for good for those who are not under obedience to the prompting of the Spirit in newness of life. *Romans* 7:6 (Amplified).

Counter-Petitioner holds the sincere belief that mandatory participation in a divorce proceeding in

the State of Texas would cause the marital couple to commit adultery, including spiritual adultery (disloyal wavering individuals with divided interests and unclean hearts *James 4:8* (Amplified)), forcing them to deny their marriage covenant with God thereby serving a false god, by placing their trust to resolve marital conduct issues in another besides The Almighty God subjects the Lecuonas to “pressing distress and severe affliction” from which Counter-Petitioner pleads for relief. Lecuona Aff. ¶¶11-14.

A. Section 1.003 of the Texas Family Code

The underlying statute applicable in this counterclaim is set forth in Section 1.003 of the Texas Family Code and states as follows: “Suit for Dissolution of Marriage, provides for a suit for dissolution of a marriage which includes a suit for divorce or annulment or to declare a marriage void.” Counter-Petitioner asserts that enforcement of a divorce proceeding under Section 1.003 constitutes government “control” or “interference” burdening the exercise of sincerely held beliefs, described more fully in Exhibit A to this Counterclaim.

A state statute which provides for the identification of a marriage and resolution of conduct within a marriage is a previous restraint upon the free exercise of religion, and a deprivation of liberty without due process of law. The fact that arbitrary or capricious action by a judge is subject to judicial review cannot validate the statute. “A previous restraint by judicial decision after trial is as obnoxious under the Constitution as restraint by administrative action.” *Cantwell*, Id at 306. To allow a cause of action under Sec. 1.003 for dissolution of

the Lecuona marriage prohibits the free exercise of religion in violation of the Fourteenth Amendment. By establishing a law that fails to account for a person's conscience in matters of religion, the state of Texas is regulating the identity and conduct of the marriage without taking into consideration sincerely held beliefs in violation of constitutional protection. In establishing a cause of action for declaratory relief demonstration of a violation of a person's "rights of conscience" is required.

i. State Regulation of the marriage identity and marital conduct

The Texas Family Code recognizes the importance of sincerely held religious beliefs for individuals or organizations and provides protection for such classes of people if an action would cause an individual to violate rights of conscience in sincerely held beliefs. TEX. FAM. CODE § 2.601. The belief that the identity of the Lecuona marriage is a consecrated marriage--an inseparable, indivisible blood covenant between God, Mark and Shawn, sealed in God, according to the Word of God is a sincerely held belief regarding the true identity of the marriage. Lecuona Aff. ¶¶5-9, 11-14. "It is the policy of this state to preserve and uphold each marriage against claims of invalidity unless strong reason exists for holding the marriage void or voidable." TEX. FAM. CODE § 1.101. Counter-Petitioner would show that by the Court enforcing Section 1.003 in this particular Cause, it would invade protected rights to the identity of the Lecuona marriage by endeavoring to effectuate a change to the inherent nature of the Lecuona marriage. "The inherent nature of a

divorce proceeding requires both a respondent whom the petitioner seeks to divorce and a legally recognized relationship between the parties that the petitioner seeks to alter. An obvious purpose and function of the divorce proceeding is to determine and resolve legal obligations of the parties arising from or affected by their marriage". *In re Marriage of J.B. and H.B.*, 326 S.W.3d 654, 654 (Tex. App.—Dallas 2010, pet. dism'd).

## V.

### STANDARD OF REVIEW FOR DETERMINING “CONTROL” OR “INTERFERENCE” IN MATTERS OF RELIGION PROTECTED UNDER THE TEXAS CONSTITUTION

In order to demonstrate a violation of “rights of conscience” under Article I, Section 6, there must be a showing that government “control” or “interference” with religious conscience substantially burdens the exercise of that person’s religious beliefs. *Waite v. Waite*, 64 S.W.3d 217 (Tex. App.—Houston [14th Dist.] 2001, pet. denied (Frost concurring and dissenting)). The Texas constitutional protections for religious freedom are more expansive than those provided by the First Amendment, and thus the most stringent test (strict scrutiny) is appropriate.

The applicable standard to apply in determining a showing that government “control” or “interference” with religious conscience “substantially burdens a person’s free exercise of religion” under the TEX.CIV.PRAC. & REM.CODE §110.001-110.012. The exercise of one’s particular religious beliefs is the strict scrutiny test. The Court should apply the strict scrutiny test to determine whether there is a

compelling state interest behind the divorce law and the lack of a less restrictive alternative. *Id* §110.003. Under the traditional strict scrutiny test, once the “substantial burden” is established, the burden shifts to the [opposing party] to make a showing of “a compelling state interest behind the regulation and the lack of a less restrictive alternative.” Howell v. State, 723 S.W.2d 755 (Tex. App.—Texarkana 1986, no writ).

#### IV.

#### COUNTER-PETITIONER’S RIGHTS OF CONSCIENCE

The right to believe in the Word of God and the blood covenant created in the Lecuona marriage as a consecrated marriage--an inseparable, indivisible blood covenant between God, Mark, and Shawn, sealed in God, is protected by the Law of God, and the laws of man. The Lecuona marriage is a blood covenant marriage wherein husband, wife and God, exist as one, created by God, to exist, for so long as they live life here on earth and is not subject to divorce. The Word of God, the Texas Constitution and the Texas Family Code all support and protect consecrated blood covenant marriages through the protections afforded therein.

Counter-Petitioner incorporates by reference Exhibit A, Affidavit of Shawn Hall Lecuona, in its entirety, attached hereto as if set forth at length, to support the rights of conscience in matters of religion pertaining to the identity of the marriage and the conduct in which the marriage is to be governed. The Texas Constitution, The Texas Family Code and the Texas Civil Practices and Remedies Code all

recognize and support this belief. Granting a declaratory judgment in this proceeding would be proper and consistent with the policies of this state to promote marriages and families. Failing to do so would deny the Lecuona marriage the fundamental right of the free exercise of conscience in a matter of religion and of sincerely held religious beliefs violating the Word of God, the Texas Constitution, Texas Family Code and the Texas Civil Practices and Remedies Code.

#### PRAYER

Counter-Petitioner requests the Court grant this Counterclaim for Declaratory Judgment and issue affirmative declarations in the following: that 1) protected “rights of conscience in matters of religion”, in particular, the identity of the Lecuona marriage and the conduct of the Lecuona marriage, are protected under one or more of the following: The Free Establishment Clause, The Free Exercise Clause (herein referred to as “Religion Clauses”) of the First Amendment of the United States Constitution, Freedom of Worship Clause in Article I, Section 6.001 of the Texas Constitution, Sections 1.101 and 2.601 *et. seq.* of the Texas Family Code and Section 110.003 of the Texas Religious Freedom Restoration Act, and 2) enforcement of divorce proceedings under Section 1.003 of the Texas Family Code in this Cause violates the rights of conscience in the Lecuona marriage in matters of religion substantially burdening the exercise thereof, in violation of guaranteed rights to freedom of religion guaranteed under one or more of the Religion Clauses of the First Amendment of the United States Constitution, Freedom of Worship Clause Article I, Section 6 of the Texas Constitution

and §§ 1.101 and 2.601 *et. seq.* of the Texas Family Code and Section 110.003 of the Texas Religious Freedom Restoration Act. There is no compelling state interest that would justify the substantial burden effectuated by the state's enforcement of a divorce proceeding in relation to the Lecuona marriage. State enforcement of a divorce proceeding under Section 1.003 is not narrowly tailored to meet any state interest; and granting such further relief to which Counter-Petitioner shows justly to be entitled.

Respectfully submitted,

By: \_\_\_\_\_

The Advocate

Mailing Address:

c/o Shawn Hall Lecuona

12400 Hwy. 71W, Ste. 350-315

Austin, TX 78738

(512) 922-3745 Telephone

shawn@lecuona-law.net

ATTORNEYS FOR

RESPONDENT

IV.

MOTION FOR PROTECTIVE ORDER

This Motion for Protective Order is brought by Movant, Shawn Hall Lecuona, who shows in support:

1. Movant has been serviced with Petitioner's Request for Disclosure, Request for Production, and Written Interrogatories in the underlying cause of action for divorce, requiring Movant to respond on or before Monday, September 28, 2015.

2. This request for an order protecting Movant from the discovery sought is brought within the time permitted for a response to discovery.

3. With good cause and in the interest of justice, Movant seeks a protective order under rule 192.6 of TRCP on each discovery request to prevent undue burden, unnecessary expense, and a further invasion of Counter-Petitioner's constitutional rights. An objection to written discovery or an assertion of privilege is not appropriate in this case due to the pending resolution of the invasion of Counter-Petitioner's constitutional rights, and it would not be reasonable for Counter-Petitioner to respond to the discovery requests before obtaining a ruling on the counterclaim for declaratory relief.

a. Movant was served with discovery requests on August 28, 2015, the same day that Movant filed a Response to Motion for Withdrawal of Counsel and Motion for Substitution of Counsel with this Court. On September 3, 2015 this Court entered an Order Substituting Counsel.

b. As fully briefed in the above Counterclaim for Declaratory Judgment, Movant holds sincere religious beliefs that are protected by affirmative rights defined by the U.S. Constitution, Texas Constitution Section I, Art. 6. and Texas law, for which relief is sought.

To allow discovery into the matter of the divorce proceeding in this Cause would constitute an undue burden and unnecessary expense; and an invasion of Counter-Petitioner's constitutional rights. Protecting Movant from the requirement of filing a response to Petitioner's discovery requests while the Counterclaim for Declaratory Judgment (seeking dismissal of the divorce action on unconstitutional grounds) is determined outweighs any perceived benefit of allowing discovery to continue.

81a

PRAYER

Movant requests the Court grant this Motion and enter a protective order that the requested discovery not be sought in whole, or in part, in this case and granting such further relief to which Movant shows justly to be entitled.

Respectfully submitted,

By: \_\_\_\_\_

The Advocate

Mailing Address:

c/o Shawn Hall Lecuona

12400 Hwy. 71W, Ste. 350-315

Austin, TX 78738

(512) 922-3745 Telephone

shawn@lecuona-law.net

ATTORNEYS FOR RESPONDENT

CERTIFICATE OF CONFERENCE

In accordance with Rule 191.2, I certify that a reasonable effort has been made to resolve the dispute without the necessity of court intervention, but these efforts have failed to date to resolve the matters presented in the Motion.

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the foregoing Affidavit of Shawn Hall Lecuona has been hand delivered to the following attorney of record on this 28th day of September, 2015, to witness:

Mr. Samuel E. Bassett

Minton, Burton, Bassett & Collins, P.C.

1100 Guadalupe

Austin, Texas 78701

AFFIDAVIT OF SHAWN HALL LECUONA

BEFORE ME, the undersigned authority, on this day personally appeared Shawn Hall Lecuona, who affirmed to tell the truth of what is written herein and stated as follows:

1. My name is Shawn Hall Lecuona. I am of sound mind and capable of making this declaration and personal statement of belief. I have personal knowledge of the facts written in this statement. I understand that if I lie in this statement I may be held criminally responsible. This statement is true as it pertains to the telling of events included herein and as to my sincere belief in God, as a Christian and as such beliefs pertain to matters related to the above Cause. All references to the Word of God are to the Amplified version of the Bible.
2. **Statement of Beliefs.** I believe in one true Godhead comprised of the Father, Son, and Holy Spirit, Whom has created all. All are co-equal and co-eternal. *Genesis 1:26, Isaiah 9:6, Matthew 28:19, John 1:1 & 14, 1 John 5:7.* Jesus Christ, God manifest in the flesh, is the second member of the Godhead. *1:26-31, 3:1-7.* I believe in the Bible in its entirety, the God-breathed inerrant, inspired Word of God and the revealed Will of God. *Matthew 24:35, 2*

*Timothy 3:15-17, Hebrews 4:12; 1 Peter 1:21-25.* I believe mankind was created in God's image for a relationship in and with Him. *Genesis 1:26-31.* By his own will man fell, separating himself from God, being deceived, and his only hope of full redemption is in Christ Jesus, the Son of God, the incarnate, God in the flesh, Lord and Savior of one who believes in Him, a "believer". *Genesis 3:1-7, Romans 12:21.*

a) I believe when a man (or woman) accepts a call upon their heart—"a tugging of the heart", from Jesus, through their own acceptance of this hope of redemption in Christ, believing He rose from the dead for this purpose, and that by confessing this belief with their mouths they receive a "New Birth". *2 Corinthians 5:17.* "Because if you acknowledge and confess with your lips that Jesus is Lord and in your heart believe (adhere to, trust in, and rely on the truth) and that God raised Him from the dead, you will be saved. "God is a Spirit (a spiritual Being) and those who worship Him must worship *Him* in spirit and in truth (reality)." *John 4:24.* For with the heart a person believes (adheres to, trusts in, and relies on Christ) and so is justified (declared righteous, acceptable to God), and with the mouth he confesses (declares openly and speaks out freely his faith) and confirms his salvation. *Joel 2:32, Romans 10:9-10, 13, Acts 2:17 (Amplified).*

b) Thereafter, through the Holy Spirit, the truth of The Word of God is illuminated in the new believer which then serves as the foundation of faith, personal holiness, and purity of heart and life for a Christian.

c) I believe in water baptism and in the Baptism of the Holy Spirit (as distinct from the New Birth), the

endowment of power for life and service, the bestowment of gifts and their uses in the work of the ministry.

d) I believe the Church is the Body of Christ, with Christ as the Head and that I, as a believer, an integral part of this assembled Body—a “Christ-like” member of the Body of Christ, or Christian. *1 Corinthians 12:12-27, Ephesians 1:22-23; 2:19-22, Hebrews 12:23.*

3. ***Statement of Events.*** I first met my husband, Mark R. Lecuona, at the wedding of my college roommate. Years later we were both reacquainted by the same friends, but this time the meeting went differently than in years past. Mark and I had both come through some life trials and began to share about some of those situations. Although living in different cities, I, in Houston and him, in Dallas, we continued those conversations long distance. Our relationship grew stronger as we shared personal details about our lives from the past, present and looking towards the future—the thoughts and intentions of our hearts; who we were, and life in general. During this time, in him I “saw” characteristics of kindness and goodness. On one particular occasion we had been in a hurry, upon entering an office building Mark stopped to speak to one of the building’s cleaning crew on duty that day, notwithstanding the pressures of our plans. The worker was not someone whom my husband had really known but rather a familiar face; Mark had no particular reason to stop to talk only to share a moment with the man. That particular incident, while seeming only small and incidental to some, has always resonated within my heart, even all

these years later, because I saw inward characteristics within Mark's own heart.

4. As our relationship grew I recall bringing up faith and how I identified myself as being a Christian because it was essential to me to know about Mark's own spiritual identity in order for us to continue. He replied that he too was a Christian, having made a commitment to Christ at a church in Dallas years previously. Mark described what he had experienced up to that time, including his public decision to participate in baptism in water. We discussed some of each other's past choices and how they had separated us from God. At that time, I recalled that if God had forgiven Mark and I, both, and did not hold the mistakes against us, we too could forgive one another. In *James 4:8*, it is written in the Word of God, "Come close to God and He will come close to you. Recognize that you are sinners, get your soiled hands clean; realize that you have been disloyal wavering individuals with divided interests and purify your hearts of your spiritual adultery." It is also written in His Word, "[Remember] that you were at that time separated (living apart) from Christ [excluded from all part in Him], utterly estranged and outlawed from the rights of Israel as a nation, and strangers with no share in the sacred compacts of the Messianic promise [with no knowledge of or right in God's agreements, His covenants.] And you had no hope (no promise); you were in the world without God. But now in Christ Jesus, you who once were [so] far away, through (by, in) the blood of Christ have been brought near."

5. Soon thereafter, Mark told me that he wanted my life to be his life, together forever and later

proposed to me, to which I accepted. We moved forward trusting in God that by His love operating in each one of us we could commit ourselves to one another in Him and be joined as One in union with Him as husband and wife. At no time was there any discussion about a contract or any other kind of marriage or relationship other than a Godly marriage built upon the covenant of God in our love for one another. Therefore, on May 23, 1994, in Yosemite Valley, CA, a man, Mark, left his father, and his mother, and was united firmly/joined inseparably to a woman, myself, a called out woman of God, to be a helper meet", *Genesis 2:18*, in Mark. It is written in *Genesis 2:24*, that the two became one flesh so that they were no longer two, but one flesh. *Genesis 1:27, 5:2*. This same truth was repeated by Jesus, Himself, in *Mark 10:6-9*.

6. We exchanged rings as a memorial to this covenant made between the two of us, reminding us daily of our covenant with God, a "picture" of the same kind of blood covenant we each had entered into with Jesus Christ. I took Mark's name as I gave him my life as God joined us and made us one that day by the life of His blood covenant created in us and declaring the words written in *Matthew 19:6 and Mark 10:9*, through a minister of the Gospel of Jesus Christ, to all those present in attendance, as the two of us exchanged vows, that what God had joined together no man may separate or divide. For He is [Himself] our peace (our bond of unity and harmony)." *Ephesians 2:12-14*.

7. The Spirit of God, the "Helper" Himself, consecrated the Lecuona marriage which He united

firmly on our wedding day, when the two of us became one flesh. On that day the birth of the Lecuona marriage occurred. Thereafter, the birth of our two children occurred, our son first, and then seven years later, our daughter. It is written in His Word, "As for the life of all flesh, the blood of it represents the life of it." *Leviticus 17:14(a)*. Both of our children have our life in them. They are living breathing examples of the life created from our flesh.

8. Mark is a believing husband in union with me, a believing wife, both consecrated in the Lord through our blood covenant with Him. By "belief" I refer to one having gone through the experience of the New Birth described in Paragraph #2 above. Since it is written "All whom My Father gives (entrusts) to Me will come to Me; and the one who comes to Me I will most certainly not cast out [I will never, no never, reject one of them who comes to Me.]" *John 6:37*, I know we have both been born again -- a miracle that happens in this New Birth, the re-created human spirit of the person within their very life. The Lord has shown me many things about my husband that I would never have known without being in the authority of this blood covenant. This has led me to learn more about the Word of God as I have been able to walk in the authority of Christ in praying for my husband, having a unique position of authority to pray for him (because of the marriage covenant), us and our children—The Lecuona Family. Over time I have looked back to realize that the kindness and gentleness I had first seen demonstrated through Mark in his actions was fruit of the Holy Spirit of God

[the work which His presence within accomplishes] which is described in *Galatians* 5:22. The Lord admonishes “those who belong to Christ Jesus (the Messiah) to live by the Holy Spirit and to walk by the Holy Spirit [If by the Holy Spirit we have our life in God, let us go forward walking in line, our conduct controlled by the Spirit]. *Galatians* 5:25.

9. As children of God our marriage is sealed in Him, and this seal of the blood covenant may not be broken. *Matthew* 19:6; *Mark* 10:9. Since that wedding day in 1993 I have come to learn how mighty this blood covenant has been to withstand the many trials and temptations of—our one flesh—referred to more specifically in *Revelation* and *Psalms* as our “mind, will and emotions.” *Revelation* 2:23; *Psalm* 7:9. Through our twenty plus years of marriage the Lord’s promises have remained true. The Lord has been faithful to us through trials, temptations and afflictions of life—sickness, disease, infirmity, lack, calamity, death. We continue blessed because during those struggles He has always lived up to His name(s): “Wonderful Counselor, Mighty God, Everlasting Father [of Eternity], Prince of Peace”. *Isaiah* 9:6.

10. In order to receive all the rights and privileges accompanying this blood covenant of marriage we must put our full trust in Him, the One to Whom we are called—God. “God has called us to peace.” *1 Corinthians* 7:15. The Lord calls Mark and I to His promised peace. “Peace”, the “Prince of Peace” to whom we have been called, *Isaiah* 9:6. “God’s peace [that tranquil state of a soul assured of its salvation through Christ and so fearing nothing from God and

being content with its earthly lot of whatever sort that is, that peace which transcends all understanding shall garrison and mount guard over your hearts and minds in Christ Jesus.” *Philippians* 4:7. To encourage us through this time, the Lord has given us this song to which our daughter has sung and is helping to write the actual notes (Mark added some of his music knowledge too)—a short song that comes forth from the heart sums up what we have in this blood covenant marriage with Him—God, Mark and me.

I praise You Lord for this new day.

I praise You Lord each and every way, uh huh ... uh huh.

Now as I go, and do not stay, You show me how and lead the way. Peace goes before me, not behind, never straying don’t you mind.

I praise You Lord for this new day.

I praise You Lord each and every way, uh huh ... uh huh.

We are pointers don’t you know towards the One Who helps us grow. When we do we shall be united Lord unto thee.

I praise You Lord for this new day.

I praise You Lord each and every way, uh huh ... uh huh.

And never will the enemy steal from me what’s to be apart.

I praise You Lord for this new day.

I praise You Lord each and every way, uh huh ... uh huh.

Now as You come unto us we shall be in matrimony, uh huh ... uh huh. Amen.

11. **Beliefs Applied.** In the light of the foregoing paragraphs 1-10, it is my sincere belief that: A “consecrated” or “solemnized” union of one to another, in God, is a marriage created in a covenant union with God—its unchanging conditions, commandments and promises are subjected to the Will of our Father God. Our marriage, and therefore each one of us, is sealed in Him by the power of covenant. As a Christian participating in a divorce proceeding in the State of Texas would cause Mark and I to commit adultery, including spiritual adultery (disloyal wavering individuals with divided interests and unclean hearts *James 4:8*), which is **serving a false god**, by placing our trust in anyone other than God, His Holy Spirit, His Son, or His Word, subjects us to “pressing distress and severe affliction”, unless we turn away our minds from conduct [such as that contained in a divorce proceeding] and repent of their (our) doings. *Revelation 2:22*.

12. According to the Word of God in *Malachi 2:13-15*, “double guilt covers the altar of the Lord with tears [shed by unoffending wives, divorced by you who take heathen wives], and with [your own weeping and crying out because the Lord does not regard your hand.] Why does the Lord reject his offering? Because the Lord was witness [to the covenant made at your marriage] between you and the wife of your youth, against whom you have dealt treacherously and to whom you were faithless. Yet she is your companion and the wife of your covenant [made by your marriage vows]. And did not God make [you and your wife] one [flesh]? Did not One make you and preserve you spirit alive? And why [did God make you

two [one]? Because *He* sought a godly offspring [from your union].” (Our son and daughter are the offspring of our union.) “Therefore take heed to yourselves, and let *no one deal treacherously* or be *faithless* to the wife of his youth. For the Lord, the God of Israel says: I hate divorce and marital separation and him who covers his garment (his wife) with violence. Therefore keep a watch upon your spirit [that it may be controlled by My Spirit], that you deal not treacherously and faithlessly [with your marriage mate].” *Malachi 2:15-16.*

13. God warns us to pay attention and heed His voice and not to “weary the Lord with words.” “Yet you say, ‘In what way have we wearied *Him*?’ [You do it when by your actions] you say, ‘Everyone who does evil is good in the sight of the Lord and He delights in them.’ or [by asking], ‘Where is the God of justice?’ *Malachi 2:17.* Christ Jesus has a better Way of life for marriages. “And *He* designed to reconcile to God both in a single body by means of His cross, thereby killing the mutual enmity and bringing the feud to an end.” “By abolishing in *His* (Christ’s) flesh the enmity caused by the Law (between men and woman and their children and others in the world *Genesis 3:15*), with its decrees and ordinances [which *He* annulled] (as pictured in *Luke 23:12*); that *He* from the two might create in *Himself* one new man [one new quality of humanity out of the two], so making peace” *Ephesians 2:15*, “by slaying the enmity”. *Ephesians 2:16.* When we lean into Christ, trusting in, on and through Him, we have peace, not enmity.

**Pharisees:** “Is it lawful for a man to dismiss and repudiate and divorce his wife? *Mark 10:2*

**Jesus:** He answered them, “What did Moses command you?” *Mark 10:3*

**Pharisees:** They replied, “Moses allowed a man to write a bill of divorce and to put her away.” *Mark 10:4*

[It is written in the Word of God in *Deut. 24: 1-4*, “The Mosaic Law allowed for the writing of a bill of divorce for a man if he “takes a wife and marries her, if then she finds no favor in his eyes because he has found some indecency in her”.]

Jesus rightly divided the Word of God in response to those who tested Him to find a weakness in Him regarding this Truth, to which I ascribe.

Continuing He said:

**Jesus:** “*But* Jesus said to them, Because of your hardness of heart [your condition of insensibility to the call of God] he wrote you this precept in your Law. “*But* from the beginning of creation God made them male and female. For this reason a man shall leave [behind] his father and his mother *and be joined to his wife and cleave closely to her permanently*, and the two shall become one flesh, so that they are no longer two, but one flesh. What therefore God has united (joined together), let not man separate or divide.” *Mark 10:5-9* (emphasis added).

**Jesus:** (afterwards speaking only to the disciples as believers in His Word): “He said to them, Whoever dismisses (repudiates and divorces) his wife and marries another commits adultery against her; and if a woman dismisses (repudiates and divorces) her husband and marries another, she commits adultery.

Later in the same chapter of the book of *Mark*

and in the book of *Luke* Jesus responds to a certain man, a ruler who asks a question about what it took to partake of eternal salvation in the Messiah's kingdom, to which Jesus replies:

**Jesus:** ... “[D]o not commit adultery”. *Mark* 10:19, *Luke* 18:20.

14. The adultery to which Jesus refers above includes *spiritual* adultery as well as adultery in the flesh or natural. In the Word of God the underlying spiritual meaning of spiritual adultery is depicted as the woman, “Jezebel” in *Revelation* 2:20-23, who is “teaching and leading astray the Son of God’s servants and beguiling them”. Christ links the spiritual with the fleshy form of adultery and warns Christians to “take note” and “turn away their minds (part of our flesh) from conduct [such as] hers and repent of their doings.” *Revelation* 2:22. “Now the Lord is the Spirit, and where the Spirit of the

Lord is, there is liberty (emancipation from bondage, freedom)." *Isaiah 61:1, 2, 2 Corinthians 3:17.* "It is the Spirit Who gives life [He is the Life-giver]; the flesh conveys no benefit whatever [there is no profit in it]. The words (truths) that I have been speaking to you are spirit and life." *John 6:63.* "For the unbelieving husband is set apart ("sanctified") [separated and affiliated with the Christian people) by union with his consecrated (set-apart) wife, and the unbelieving wife is set apart and separated through union with her consecrated husband. Otherwise your children would be unclean, (outside the Christian covenant), but as it is they are prepared for God [pure and clean]". *1 Corinthians 7:14.* A covenant creates a bond that is more intimate, binding and far reaching than a simple promise contained in a contract. By standing firm upon the blood covenant of marriage seeking His kingdom, and His righteousness first in all ways to ascertain the way through difficulties and not be "without understanding, conscienceless and faithless, heartless and loveless [and merciless]" (*Romans 1:31*) Mark and I both, as one, receive the life God intended for our marriage and our family for so long as we both shall live.

This affidavit called forth in good faith the truth for which it is set forth and not intended for the purpose of delay, but to enforce the blood covenant marriage between God, Mark and myself.

*(original signed)*

SHAWN HALL LECUONA

SIGNED before me on September 28<sup>th</sup> , 2015.

*(original notarized)*

95a

Notary Public

State of Texas

Taylor Hopkins

Typed or Printed Name of Notary

My Commission Expires: 09/18/18

[SEAL] *Taylor Hopkins*

*Notary Public*

*State of Texas*

*My Commission Expires 09/19/18*

**APPENDIX G  
ISSUES PRESENTED  
THIRD COURT OF APPEALS  
AUSTIN, TEXAS**

- I. SECTION 6.001 OF THE TEXAS FAMILY CODE IS UNCONSTITUTIONAL AS APPLIED TO APPELLANT.**
  - A. Appellant's Challenge is properly before the Court.
  - B. Strict Scrutiny is the Correct Standard of Review for this Case.
  - C. There is No Compelling State Interest that Would Justify the Burden Imposed by Section 6.001 of the Texas Family Code on Appellant's Constitutional Rights.
    1. There is a compelling state interest in protecting marriages.
    2. There is no corresponding state interest in protecting divorce.
- II. THE TRIAL JUDGE ABUSED HER DISCRETION IN GRANTING THE DIVORCE AND DIVIDING THE MARITAL ESTATE.**

**APPENDIX H**  
**ISSUES PRESENTED FOR REVIEW**  
**TEXAS SUPREME COURT**

- I. SECTION 6.001 OF THE TEXAS FAMILY CODE IS UNCONSTITUTIONAL AS APPLIED TO SHAWN. TEX. FAM. CODE ANN. § 6.001.**
  - A. The Constitution Protects the Right of Individuals to Make Choices within the Parameters of Their Own Private and Unique Marriage, Including the Purposes or Legitimate Ends of the Marriage.
  - B. Strict Scrutiny is the Correct Standard of Review for this Case.
  - C. There is No Compelling State Interest that Would Justify the Burden Imposed by Section 6.001 of the Texas Family Code on Petitioner's Constitutional Rights.