

STATE OF MICHIGAN
IN THE 20TH CIRCUIT COURT
FOR THE COUNTY OF OTTAWA
FAMILY DIVISION

**PETER WILLIAM
KRUITHOFF,
Plaintiff,**

**File No. 18-88972-DM
HON. KENT D. ENGLE**

vs.

**KAREN LYNNE
KRUITHOFF,
Defendant.**

**COMPLAINT FOR
DIVORCE AFFIDAVIT
FOR THE PURPOSE OF
THE UNIFORM CHILD
CUSTODY JURISDI-
CTION ENFORCEMENT
ACT (Act 297 of the
Public Acts of 1975)
EX-PARTE MOTION
FOR DNA TESTING
EX-PARTE MOTION
FOR CUSTODY**

**MARISSA E. BARKEMA
(P-77910)
Law Office of Marissa
E. Barkema, PLLC
Attorney for Plaintiff
149 E. Main Ave.
Zeeland, MI 49464
Tel. (616) 490-1699
Fax (616) 931-7068**

**KAREN LYNNE
KRUITHOFF
Defendant In Pro Per
14460 Winding Creek Ln.
West Olive, MI 49460**

COMPLAINT FOR DIVORCE AFFIDAVIT
FOR THE PURPOSE OF THE UNIFORM
CHILD CUSTODY JURISDICTION
ENFORCEMENT ACT EX-PARTE MOTION
FOR DNA TESTING AFTER BIRTH
EX-PARTE MOTION FOR CUSTODY

(Filed Aug. 8, 2018)

There are no pending actions.

NOW COMES Plaintiff, **Peter William Kruithoff**, by and through his attorney, Marissa E. Barkema, and for his Complaint for Divorce under MCL 552.6; MSA 25.87, Affidavit under MCLA 600.659; MSA 27A659, Ex-Parte Motion for DNA testing, and Ex-Parte Motion for Custody sets forth until this Honorable Court as follows:

1. The Plaintiff has been a resident of the **State of Michigan** for more than 180 days and a resident of the **County of Ottawa** in excess of 10 days continuously immediately preceding the filing of this action.
2. That on the 22nd day of July, 2016, the Plaintiff was duly and legally married to the Defendant in the City of Las Vegas, Clark County, Nevada.
3. That Plaintiff's name previous to this marriage was **Peter William Kruithoff**. Defendant's name previous to this marriage was **Karen Lynne Glass**.
4. That the parties separated in **May of 2018**.
5. That Defendant is currently pregnant.

App. 3

6. That the parties are possessed of certain personal property.
7. That the parties are possessed of certain marital debts.
8. That Plaintiff is currently employed at Auto-Zone 230 James St. Holland, MI 49424.
9. That there has been a breakdown in the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.
10. That Plaintiff is currently facing criminal charges with Defendant as the alleged victim.
11. That Plaintiff is currently under a no contact order regarding Defendant.
12. That Plaintiff is not certain if he is the biological father of Defendant's baby due to a period of physical separation around the time of conception.
13. That DNA testing of the child and Plaintiff would allow Plaintiff to confirm or rebut paternity.
14. That Defendant intends to give the unborn child up for adoption or to exercise the Safe Delivery option pursuant to MCL 712.3 (See attached Exhibit A).
15. That, upon knowledge and belief, Defendant intends to move to Miami, FL, having visited the area in May of 2018 to place a deposit on housing and secure employment.

App. 4

16. That if Plaintiff is the biological father of the baby, he does not want the child put up for adoption, and in order to preserve his parental rights would allow his parents Richard and Lynda Kruithoff to care for the child at their home in Nevada while he makes his way through the criminal justice system and reestablishes stability.
17. That Richard and Lynda Kruithoff are willing to care for the child while Plaintiff does this. (See attached Exhibit B)
18. That Richard and Lynda Kruithoff are fit and adequate care providers for the child.
19. That irreparable harm to plaintiff would result if ex parte relief is not granted.

WHEREFORE, Plaintiff prays:

First, that the marriage between Plaintiff and Defendant be dissolved and a divorce be entered in accordance with the statute in such case made and provided.

Second, that the debts and assets of the parties be divided equitably.

Third, that the Court order that DNA testing be performed on the child upon its birth in order to establish paternity.

Fourth, that Plaintiff be granted sole physical and legal custody of the unborn child pending results of the DNA testing.

App. 5

Fifth, that reasonable child support be set according to the Michigan Child Support Guidelines (MCL 552.605(2)).

Sixth, Defendant not be granted parenting time.

Seventh, that Plaintiff be awarded reasonable spousal support.

Eighth, that Plaintiff be granted such other and further relief that this Honorable Court deems equitable, fair, and in the best interest of the minor child.

8-8-18
Date

/s/ Peter Kruithoff
Peter William Kruithoff,
Plaintiff

STATE OF MICHIGAN)
) SS.
COUNTY OF OTTAWA)

On the 8th day of August, 2018, before me personally came the above-named Plaintiff and made oath that she has read foregoing Complaint for Divorce and Affidavit by her subscribed, and knows the contents thereof and the same is true of her own knowledge, except as to those matters which are stated to be on her information and belief, and as to those matters she believes them to be true.

/s/ Marissa E. Barkema, Notary Public
Acting in Ottawa County, Michigan
My Commission expires: 8/3/18

App. 6

Prepared By:

/s/ Marissa E. Barkema
Marissa E. Barkema
Attorney for Plaintiff

App. 7

Gmail - Fwd: Karen Kruithoff email

M Gmail

Marissa Barkema <marissa.barkema@gmail.com>

Fwd: Karen Kruithoff email

2 messages

Rich Kruithoff <rakruithoff@gmail.com>

Tue, Jul 31, 2018 at 3:24 PM

To: Marissabarkema@gmail.com

I received an email from Peters wife, Karen. Be advised Peter has been bailed out of jail. He will be available tomorrow. Please advise on the best course of action.

Begin forwarded message:

From: Karen Glass <glassk57@gmail.com>

Date: July 31, 2018 at 9:13:29 AM PDT

To: “rakruithoff@gmail.com” <rakruithoff@gmail.com>

Hi Rich,

I hope all is well with you and Linda. I'm contacting you because I have no other way to contact Peter and I was under the understanding that I would be able to do the adoption process with Pete being absent in the baby's life with moving to San Diego. The adoption agency,

Bethany Christian Services now knows about Pete and I being married and because we were married at the time of conception Peter is legally the father. I am going to need his consent for the adoption. I don't know if you are willing to ask him if this is

App. 8

something he would do or not or even if you want to.

The decision to take the adoption route has been hard but we all know this is what is best for all of us to be able to move on in different directions. Would you be willing to talk to Peter about signing papers to go through with the adoption?

I have another option which is called “Safe Delivery” where I would have the baby at the hospital anonymously, they would take him right away and everything is done. With Peter’s consent I will be able to choose the family, have a choice in open or closed adoption and be able to spend some time with him while we are at the hospital. Again this is totally up to you if you want to reach out to Peter about such a touchy topic. Whatever you decide can you let me know?

Thanks a lot Rich

Karen

—
Best Regards,
Karen Glass

Rich Kruithoff

App. 9

Gmail - Peter Kruithoff's son - Guardianship
M Gmail **Marissa Barkema <marissa.barkema@gmail.com>**

Peter Kruithoff's son - Guardianship
1 message

Rich Kruithoff <rakruithoff@gmail.com>
Tue, Aug 7, 2018 at 3:35 PM
To: Marissabarkema@gmail.com

Marissa,

Regarding: Peter Kruithoff's son, our grandson.

If a paternity test determines that Peter Kruithoff is the biological father of a child conceived with Karen Kruithoff, we would like to confirm our willingness and desire to take guardianship of Peter Kruithoff's son until such time as Peter is able to provide a safe and healthy home environment for him.

We are prepared to take immediate guardianship should Peter be awarded custody of the baby.

Richard A. Kruithoff
Lynda S. Kruithoff
3904 Marsh Sparrow Ln.
North Las Vegas, NV 89084
6616-836-5366

**EX PARTE ORDER FOR
CUSTODY, SUPPORT AND PARENTING TIME
And UNIFORM SUPPORT ORDER**

(Filed Sept. 21, 2018)

20th Circuit Court STATE OF MICHIGAN 20TH JUDICIAL CIRCUIT OTTAWA COUNTY	CASE NO: 2018088972DM JUDGE: KENT D ENGLE
---	--

Court Address: 414 Washington Ave. Suite 225, Grand Haven, MI 49417 Phone: (616) 846-8210 Fax (616) 846-8128

Plaintiff's name PETER KRUITHOFF	v	Defendant's name KAREN KRUITHOFF
---	----------	---

Plaintiff's address and telephone number 370 COUNTRY CLUB RD STE A 7 HOLLAND MI 49423	Defendant's address and telephone number 14460 WINDING CREEK LN WEST OLIVE MI 49460	
Plaintiff's attorney name, bar no., address, and tele- phone no. MARISSA BARKEMA 149 E MAIN AVE ZEELAND MI 49464	v	Defendant's attorney name, bar no., address, and telephone no. IN PRO PER

EX PARTE

A complaint for Divorce having been filed in this matter involving a minor child or children; The Parties having been Ordered to Appear for a Coordination Conference with a representative of the Friend of the

App. 11

Court; Plaintiff Defendant having failed to attend said Conference; no agreement having been reached between the Parties; the Court being so advised and it appearing to the Court that the entry of an EXPARTE Order pursuant to MCR 3.207(b) is now appropriate:

1. CUSTODY

Custody of the minor child, Baby Kruithoff (estimated DOB 8/9/18), is as follows:

Temporary legal and physical custody is granted to Peter Kruithoff.

2. Change of Legal Residence.

Except as otherwise provided in this Order, a parent whose custody or parenting time of a child is governed by this Order shall not change the legal residence of the child from the State of Michigan or a distance **of** 100 miles away from the child's legal residence of both Parents at the time this action was filed, except in compliance with section 11 of the Child Custody Act of 1970, 1970 PA 91, MCL 722.31. The present address of the child is: 370 Country Club Rd. Holland, MI 49423 and both Parties shall forthwith notify the Ottawa County Friend of the Court of any change in the residence address of said children.

3. Parenting Time. The Defendant shall have the right of Parenting Time with the minor child of the Parties as follows:

- Supervised as the parties agree. The parties may agree to a third party supervisor. If they cannot agree,

App. 12

a professional supervisor shall be used at the equally shared expense of the parties.

■ Except as specifically agreed upon by the parties in a written court order, neither parent shall exercise parenting time in a foreign country/nation that is not a party to the Hague Convention on the Civil Aspects of the International Child Abduction.

4. Inherent Rights of Children. The minor child shall have the inherent right to the natural affection and love of both Parents, and neither Parent shall do anything to estrange, discredit, diminish or cause disrespect for the natural affections of the child for the other Parent.

5. Mutual Restraining Order. Neither Party shall sell, conceal, give away or otherwise dispose of any marital assets without the written consent of both Parties.

6. Licenses. Both the Plaintiff and Defendant shall keep the Office of the Ottawa County Friend of the Court informed of any driver's license or occupational license held by that person. Such licenses shall be identified to the Friend of the Court by both Parties providing a photocopy of said license which reports the type and number of each license, and the State or Commonwealth where issued.

7. Objection. Either Party may object to this Order. Such objection must be made within 21 days after service upon that Party. Upon a hearing on such objection, the Court may rescind the Order or make such

App. 13

modifications as shall appear appropriate, and any change in the Order may be made effective on the date of this Interim Order.

8. Child Support. See attached Uniform Support Order.

This order is entered after hearing. after statutory review. on stipulation/consent of the parties.

- The friend of the court recommends support be ordered as follows.
- If you disagree with this recommendation, you must file a written objection with the Ottawa County Clerk/Register of Deeds on or before **21 days** from the date this order is mailed. If you do not object, this proposed order will be presented to the court for entry.
- Attached are the calculations pursuant to MCL 552.505(1)(h) and MCL 552.517b.

IT IS ORDERED, unless otherwise ordered in item 12 or 13: Standard provisions have been modified (see item 12 or 13).

1. The children who are supported under this order and the payer and payee are:

Payer:	Payee:	
Children's names, birthdates, and annual overnights with payer:		
Children's name	Date of birth	Overnights
Baby Kruithoff	unknown	

App. 14

Effective: **See 13a** the payer shall pay a monthly child support obligation for the children named above.

Children supported	1 child	2 children	3 children
Base support: (includes support plus or minus premium adjustment for health-care insurance)			
Support:	\$	\$	\$
Premium adjust.	\$	\$	\$
Subtotal:	\$	\$	\$
Ordinary medical:	\$	\$	\$
Child care	\$	\$	\$
Other:	\$	\$	\$
Benefit credit:	\$	\$	\$
Total:	\$	\$	\$
<input type="checkbox"/> Support was reduced because payer's income was reduced.			

Children supported	4 children	5 children
Base support: (includes support plus or minus premium adjustment for health-care insurance)		
Support:	\$	\$
Premium adjust.	\$	\$
Subtotal:	\$	\$
Ordinary medical:	\$	\$
Child care	\$	\$
Other:	\$	\$
Benefit credit:	\$	\$
Total:	\$	\$
<input type="checkbox"/> Support was reduced because payer's income was reduced.		

Uninsured Health-Care Expenses. All uninsured health-care expenses exceeding the annual ordinary medical amount will be paid ___ % by the plaintiff and ___ % by the defendant. Uninsured expenses exceeding the annual ordinary medical amount for the year they are incurred that are not paid within 28 days of a written payment request may be enforced by the friend of the court. The Michigan Child Support amount at: \$403 for 1 child, \$807 for 2 children, \$1,210 for 3 children, \$1,614 for 4 children and \$2,017 for 5 or more children.

Obligation Ends. Except for child care, or as otherwise ordered, support obligations for each child end on the last day of the month the child turns age 18. The child-care obligation for each child ends August 31 following the child's 12th birthday. The parties must notify each other of changes in child-care expenses and must additionally notify the friend of the court if the changes end those expenses.

Post-majority Support: The following children will be attending high school on a full-time basis after turning 18 years of age. Therefore, the support obligation for each specific child ends on the last day of the month as follows, except in no case may it extend beyond the time the child reaches 19 years and 6 months of age:
(Specify name of child and date obligation ends.)

(List children's names and expected graduation dates)

2. **Insurance.** For the benefit of the children, the plaintiff defendant shall maintain health-care

App. 16

coverage through an insurer (as defined in MCL 552.602) that includes payment for hospital, dental, optical, and other health-care expenses when that coverage is available at a reasonable cost, including coverage available as a benefit of employment or under an individual policy

- up to a maximum of \$____ for plaintiff.
- up to a maximum of \$____ for defendant.
- not to exceed 6% of the plaintiff's/defendant's gross income.

3. **Income Withholding.** Income withholding takes immediate effect. Payments shall be made through the Michigan State Disbursement Unit unless otherwise ordered in item 13.
4. **Qualified Medical Support Order.** This order is a qualified medical support order with immediate effect pursuant to 29 USC 1169. To qualify this order, the friend of the court shall issue a notice to enroll pursuant to MCL 552.626b. A parent may contest the notice by requesting a review or hearing concerning availability of health care at a reasonable cost.
5. **Retroactive Modification, Surcharge for Past-Due Support, and Liens for Unpaid Support.** Except as provided by MCL 552.603, support is a judgment the date it is due and is not modifiable retroactively. A surcharge may be added to past-due support. Unpaid support is a lien by operation of law and the payer's property can be encumbered or seized if an arrearage accrues in an amount greater than the periodic support payments payable for two months under the payer's support order.

- 6. Address, Employment Status, Health Insurance.** Both parties shall notify the friend of the court in writing of: a) their mailing and residential addresses and telephone numbers; b) the names, addresses, and telephone numbers of their sources of income; c) their health-maintenance or insurance companies, insurance coverage, persons insured, or contract numbers; d) their occupational or drivers' licenses; and e) their social security numbers unless exempt by law pursuant to MCL 552.603. Both parties shall notify the friend of the court in writing within 21 days of any change in this information. Failure to do so may result in a fee being imposed.
- 7. Foster-Care Assignment.** When a child is placed in foster care that child's support is assigned to the Department of Human Services while under the state's jurisdiction and to the funding county while placed in a county-funded program.
- 8. Redirection and Abatement:** Subject to statutory procedures, the friend of the court: 1) may redirect support paid for a child to the person who is providing the actual care, support and maintenance of that child, or 2) shall abate support charges for a child who resides on a full-time basis with the payer of support.
- 9. Fees.** The payer of support shall pay statutory and service fees as required by law.
- 10. Review.** Each party to a support order may submit a written request to have the friend of the court review the order. The friend of the court is not required to act on more than one request received from a party each 36 months.

A party may also file a motion to modify this support order.

11. **Prior Orders.** This order supersedes all prior child-support orders and all continuing provisions are restated in this order. Past-due amounts owed under any prior support order are preserved and paid at the rate calculated using the arrearage guideline in the Michigan Child Support Formula.
12. **Michigan Child Support Formula Deviation:** The support provisions ordered do not follow the Michigan Child Support Formula. The attached deviation addendum (FOCI 0d) provides the basis for deviation and the required findings by the court.
13. **Other:** (Attach separate sheets as needed.) In the event that the payer becomes incarcerated for a period in excess of six months, the payer's child support may be suspended by the Friend of the Court (except where incarceration is due to failure to pay child support) unless the Friend of the Court has information of other sources of income or assets with which to pay child support. The Friend of the Court shall provide the payee with notice and an opportunity to object to the suspension of the payer's child support. This provision shall have the same force and effect of a Petition for Modification and satisfies the requirements of MCL 552.603. Any such suspension shall end, and support reinstated at the previously ordered level of support, effective the date of the payer's release from incarceration. The Friend of the Court will commence a review of the child support order within 14 days of being

App. 19

notified by the support payer of a release from incarceration.

☒ 13 a. There is no current birth record for the minor child in this case, although it is suspected that the child was born on August 9, 2018, and surrendered for adoption by the Defendant on August 12, 2018 through the Safe Delivery of Newborns Act. An email from the Defendant to Plaintiffs parents on July 31, 2018, indicates her intent to release the child for adoption or deliver under Safe Delivery. Until the child is located and this issue resolved, the matter of Child Support is reserved until the child is located.

Plaintiff (if consent/
stipulation

Defendant (if consent/
stipulation

09/21/2018

Prepared by: /s/ Ann Maring 3:45 PM

ANN MARINE - CUSTODY INVESTIGATOR OTTAWA COUNTY - E-SIGNATURE
--

09/21/2018

/s/ Kent D. Engle 3:45 PM

KENT D. ENGLE - P30288 - 20TH CIRCUIT COURT JUDGE PROXY - MARING
--

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

09/21/2018
/s/ Ann Maring 3:45 PM

ANN MARING - CUSTODY
INVESTIGATOR
OTTAWA COUNTY -
E-SIGNATURE

STATE OF MICHIGAN
20th CIRCUIT COURT FOR
THE COUNTY OF OTTAWA

PETER WILLIAM KRUITHOFF, File No. 18-88972-DM
Plaintiff,

v. Hon. Kent D. Engle

KAREN LYNNE KRUITHOFF,
a/k/a KAREN LYNNE GLASS,

Defendant. /

PLAINTIFF'S MOTION FOR
ORDER TO SHOW CAUSE

BEFORE THE HONORABLE
JON A. VAN ALLSBURG, CIRCUIT COURT JUDGE
Grand Haven, Michigan – Tuesday, October 2, 2018
APPEARANCES:

For the Plaintiff: Marissa E. Barkema (P77910)
Law Office of
Marissa E. Barkema
149 East Main Avenue
Zeeland, Michigan 40464
(616) 490-1699

For the Defendant: Dolores Trese (P44175)
Legal Aid of Western Michigan
636 Hastings Avenue
Holland, Michigan 49423
(616) 394-1380

Transcribed by: Lorri L. Coleman, CER 8536
Ottawa County 20th Circuit Court
414 Washington Avenue, Suite 300
Grand Haven, Michigan 49417
(616) 846-8322

TABLE OF CONTENTS

<u>WITNESSES:</u>	<u>Page</u>
-------------------	-------------

None

<u>EXHIBITS:</u>	<u>Identified</u>	<u>Received</u>
------------------	-------------------	-----------------

None

[3] Grand Haven, Michigan

Tuesday, October 2, 2018 – 10:59 a.m.

THE COURT: We are on the record in the matter of Peter William Kruithoff versus Karen Lynn Kruithoff, file 18-88972-DM. We're here on plaintiff's motion for an order to show cause. An order was issued – an amended order was issued on September 20 and the court has a proof of service showing personal service of the order on Ms. Kruithoff on September 21 of this year. The allegation here is that defendant has violated the court's ex parte order issued back on August 10 of this year. Ms. Barkema, do you wish to go ahead?

MS. BARKEMA: Yes. Thank you, your Honor. Would the court require me calling a witness or can I just address the court?

THE COURT: I'd like to hear a summary.

MS. BARKEMA: Okay.

THE COURT: Go ahead.

MS. BARKEMA: Your Honor, we filed a complaint for divorce on August 8. This court issued the restraining order and the ex parte order indicating that the child that Ms. Kruithoff was pregnant with at the time needed to be subjected to DNA testing and that nothing should be done with the child until further order of this court. Ms. Kruithoff has completely failed to [4] communicate with myself at all over the course of this case, and it was part of our intention for getting the ex parte order and the restraining order was – it was our understanding that she intended to give the child up for either adoption or deliver through Safe Delivery. It's my information that she has given the child up through Safe Delivery. We hadn't – we have been trying to locate that child and had been unable to do so. I sent Ms. Kruithoff a letter on – that she received by restricted delivery on September 6th and she failed to respond with any of the information I requested including the date of the child's birth, location, who – which organization or person was caring for that child, and the child's current whereabouts. We – through my conversations with friend of the court workers regarding Ms. Kruithoff's coordination conference, they did locate a publication of notice of Safe Delivery that we believe refers to the child in question indicating that the child was born on September 9th and surrendered on September 12th – I'm sorry – born

App. 24

on August 9th and surrendered on August 12th, but we – the twenty-eight days had elapsed by the time we were able to locate this notice. However, I did request information from Ms. Kruithoff prior to the twenty-eight days having expired on that notice as it turns out and she failed to do so. She [5] failed to contact me regarding any DNA testing regarding the court's order and obviously does not have the child at this point, so we'd ask the court for the relief requested in our motion, your Honor.

THE COURT: And what relief is that?

MS. BARKEMA: Your Honor, that is information from Ms. Kruithoff including the date and location of the child's birth, name if known, whereabouts, who is the person or agency caring for the child, and when the child can be made available for DNA testing. We'd further ask this court sentence defendant to ten days in jail for civil contempt to be suspended provided there are no other further violations and also costs of \$300 and \$300 in attorney's fees associated with filing this motion.

THE COURT: All right. Ms. Trese?

MS. TRESE: Your Honor, this order really only has two parts to it. One, it says that neither party shall take any actions pertaining to the current placement of this child and one saying that the child is to be subject to DNA testing upon birth to establish paternity. When my client was served with this order on August 30th, the child had already been taken from her. She – and so at that point in time actually the child

was delivered and I believe that the child – she'd already agreed to the Safe Delivery adoption before the [6] order was even signed. She agreed to that on August 9th, so by the time this order was signed that was something that was already – had already happened, and since the child was taken from her, she could not – she couldn't make the child available for the DNA testing as is ordered by this. So the one – both of those are – were impossible actually for her to follow, and when she was served with this order on August – when she was served with it, she really didn't know what to do with it. She knew that it wasn't possible for her to do either of those things. So at this point there is – I don't think that the court could find her in contempt for violating this order. One, it was – she was served with the order after these events already happened and the first one about making the child available for DNA testing wasn't even possible at that point in time. The – so the fact that she had given – she had arranged for this Safe Delivery, which means she went to the hospital. She was completely anonymous when she went to the hospital. She was – she had been working with an agency to do this. She had done her best to notify her husband that she was going to do this and, as a matter of fact, attached to the plaintiff's –

THE COURT: By what right does she have any power to unilaterally take this kind of action?

[7] MS. TRESE: The – she tried to notify her husband and tell him she was doing this. As a matter of fact, they'd had several –

THE COURT: By what right can she do this?

MS. TRESE: I understand that the process –

THE COURT: She was married; right?

MS. TRESE: Yes.

THE COURT: These two are husband and wife?

MS. TRESE: Yes. But I still believe – my understanding is that the law does allow that to happen. There's a process for that. She was told that that was – there was a process for that and what happens is if they cannot contact the putative fathers – in this case she does not know whether or not he's actually the father or not.

THE COURT: He's legally the father because they're married.

MS. TRESS: Correct. And so what the – my understanding is what the agency told her was we will try to contact him, but through this process he has twenty-eight days to file something. They put a publication –they published that. They published something in the newspaper and if – and there's a twenty-eight day period where either party can – she – it's not – to my knowledge she doesn't have to have permission for him to [8] do that. The way that this – the Safe Delivery is setup is it can be done completely anonymously, so, and she was advised that that was possible for her to do through the agency that she was working with and she did notify him that she was – she attempted to

notify him that this was what she was doing. She did send an email to his parents saying this is what I'm thinking about doing and we know his parents got that because a day later his parents forwarded that to Marissa Barkema, the husband's attorney, and that's attached to – as Exhibit A to their motion. That did give them notice that this was what she was planning to do and that – and if they – and under the law at that point he, the father, has a right to file in the probate – I assume it's probate – court a request to be considered the father of the child.

Now, the other thing I just want to make this court aware is that my client didn't do this to be vindictive. She didn't do it to be mean. She very, very much did this because she believes it's in the best interests of her child. The history of these two is – first of all, the father is an extremely, extremely violent man. He's currently facing charges here in Ottawa County. He has – my client is actually lucky to still be living. When they were in Nevada, there was an incident in which they were out camping out in the middle [9] of the desert. They were driving home. They got into an argument. My client jumped out – got out of the car, tried to walk away. Her husband parked the car, got out of the car, chased her down, knocked her down onto the ground, strangled her, and strangled her until she passed out. At that point she was passed out for so long that he was able to take all of her clothes off, handcuff her, and put her back in her truck – in his truck so she woke up naked and handcuffed in his truck. She only escaped when they got into town in the middle of the night. She

App. 28

jumped out of his car at 2:00 o'clock in the morning and luckily there was another woman walking her dog at 2:00 o'clock in the morning who came and rescued her. He was convicted of strangulation in Nevada. That did get dismissed after six months because he was on probation and there were no further incidents. There was several other incidents of strangulation. He's – and another incident of kidnapping. The charges he's currently facing, he broke into her home through a window. When she went to call the police, he smashed her phone. When he – then he had a knife and he used that knife to slash all four tires on the vehicles – two tires on her vehicle. He's – he is currently facing charges for that here. The history of the domestic violence with him is very, very significant. I don't think we need to get [10] into all of that today, but they are both – have a significant drug use history. The defendant, until as recently as last May, has been using cocaine. He's used methamphetamine, marijuana. My client is a recovering heroin addict. She's been in recovery for eleven months. She's been clean. She's had drug tests to show that, but she knows that the environment that these two have is not going to be conducive to a safe life for this child. She was really simply doing what she believes is in the best interests of her child. Like I said, it wasn't an easy decision for her. When she got served with this order, she was just not sure what she needed to do. But I think at this point, I don't know if there's any – given that the father has actually filed an action, I don't know if he has the ability to try to challenge – if the adoption is already complete, I don't know if he has the legal ability to do that

or not. That's not for me really to advise him on, but there was never an intent to do this vindictively or to keep this child from her husband who is at this point in time legally the father. We're not sure if he's actually biologically the father and that's to be – would have to be determined, but I don't think that technically she violated the ex parte order and I also don't think that it was something that she did vindictively either.

[11] THE COURT: All right. Ms. Barkema, when was the summons and complaint and ex parte served?

MS. BARKEMA: It was served on the 30th, your Honor. That was the first opportunity we were able to locate Ms. Kruithoff with our private investigator.

THE COURT: And you agree that there's no dispute that the child was born on August 9 and surrendered on August 12?

MS. BARKEMA: Correct, your Honor.

THE COURT: All right.

MS. TRESE: If I could, your Honor, my client says the child was surrendered on August 9.

THE COURT: What's the date of birth?

MS. TRESE: August 9.

THE COURT: And surrendered the same day?

MS. (KRUITHOFF) GLASS: Yes, sir.

MS. BARKEMA: Your Honor, I have the notice that we believe pertains to this child that indicates a date of birth of September (sic) 9th and surrendered on August 12th at Spectrum Health Grand Rapids.

THE COURT: All right. So it appears to be clear that the actions complained of here took place three weeks approximately before service of the order on the defendant, so the court cannot hold her in contempt for violation of an order that she did not know had been [12] entered so this is not properly a contempt hearing at this point. And, frankly, it appears that the relief that the plaintiff is seeking here is relief that he's going to have to pursue in probate court under – or in the family division court out in West Olive under the adoption code and the resolution of that issue will determine whether this is a divorce case involving a minor child or it isn't. So, it doesn't appear that there's any relief that I can grant to the parties today other than to adjourn this motion pending further proceedings. Any questions about that?

MS. BARKEMA: No, your Honor.

THE COURT: All right. Then we will adjourn.

MS. TRESE: Thank you, your Honor.

MS. KRUITHOFF GLASS: Thank you, your Honor.

(At 11:14 a.m., hearing concluded)

STATE OF MICHIGAN
COUNTY OF OTTAWA

I certify that that this transcript, consisting of 13 pages, is a complete, true, and correct record of the videotape of the proceedings and testimony taken in this case as recorded on Tuesday, October 2, 2018.

Date: 4/21/22 /s/ Lorri L. Coleman
Lorri L. Coleman, CER
8536 Ottawa County
20th Circuit Court
414 Washington Avenue, Suite 300
Grand Haven, Michigan 49417
(616) 846-8230
