No.

In the Supreme Court of the United States

BRADLEY B. MILLER, PETITIONER

v.

VIRGINIA TALLEY DUNN, RESPONDENT

ON PETITION FOR REVIEW
TO THE SUPREME COURT OF TEXAS

PETITION FOR WRIT OF CERTIORARI

APPENDIX

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A

Trial Court's Order
Dismissing Bill of Review

(2019/08/01)

APPENDIX
A

NO. DF-18-06546

BRADLEY B. MILLER	§	**IN THE DISTRICT COURT**
	§	
v.	§	**330TH JUDICAL DISTRICT**
	§	
VIRGINIA TALLEY DUNN	§	**DALLAS COUNTY, TEXAS**

ORDER OF DISMISSAL

On August 1, 2019, the Court considered the Motion to Dismiss filed by Defendant, VIRGINIA TALLEY DUNN, in this case. After considering the evidence and the argument of counsel, the Court finds that Plaintiff, BRADLEY B. MILLER, is not entitled to a bill of review of the *Agreed Final Decree of Divorce* entered in Cause No. DF-13-02616 on April 2, 2019.

IT IS THEREFORE ORDERED that this case is **DISMISSED** with prejudice.

The Court further finds that Plaintiff's Petition for Bill of Review was filed frivolously and was designed to harass Defendant. IT IS THEREFORE ORDERED that Defendant, VIRIGNIA TALLEY DUNN, is entitled to judgment for her reasonable and necessary attorney's fees against Plaintiff, BRADLEY B. MILLER, in the amount of $1,500.00. IT IS FURTHER ORDERED that all costs herein are taxed against BRADLEY B. MILLER. IT IS ORDERED that all sums awarded herein shall bear post-judgment interest at the rate of 6.00% per annum from the date of this Order until paid in full.

IT IS ORDERED 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 is final, disposes of all claims, and is appealable.

SIGNED on August 1, 2019

JUDGE PRESIDING

B

Trial Court's Order
Dismissing Motion to Set Aside Judgment and Motion to Reinstate Case

(2019/11/19)

APPENDIX
B

NO. DF-18-06546

BRADLEY B. MILLER	§	**IN THE DISTRICT COURT**
	§	
v.	§	**330TH JUDICAL DISTRICT**
	§	
VIRGINIA TALLEY DUNN	§	**DALLAS COUNTY, TEXAS**

ORDER ON MOTION TO SET ASIDE JUDGMENT AND REINSTATE CASE

On November 19, 2019, the Court considered the Motion to Set Aside Judgment and Reinstate Case and Plaintiff's Objections to Dismissal filed by Plaintiff, BRADLEY B. MILLER, in this case. After considering the evidence and the argument of counsel, the Court finds that the Objections should be overruled and that the Motion is without merit.

IT IS THEREFORE ORDERED that Plaintiff's Objections to Dismissal are NOT TIMELY and therefore the Court declines to rule on same and ~~OVERRULED~~. IT IS FURTHER ORDERED that the Motion to Set Aside Judgment and Reinstate Case is **DENIED**.

SIGNED on November 19, 2019.

Andrea J Plumlee

JUDGE PRESIDING

C

Trial Court's Ruling on Motion to Enter Confidentiality Order

(Case # DF-13-02616)

(2013/11/06)

APPENDIX
C

CAUSE NO. DF 13-02616

IN THE MATTER OF: V.T.D. and B.B.M. and in interest of V.T.M., a child

IN THE 330th FAMILY DISTRICT COURT OF DALLAS COUNTY, TEXAS

ASSOCIATE JUDGE'S REPORT (Divorce/SAPCR)

Temporary ______ *Final* ______

Pursuant to an order of referral, a hearing in this matter has been held by a duly appointed Associate Judge as authorized by Chapter 201, Texas Family Code. The parties are hereby given notice of the findings and recommendations contained herein and of their right to be heard by a District Judge upon written request in the terms of Chapter 201, Texas Family Code. A copy of this Report has been given to each party or the party's attorney who appeared at the hearing.

[ ] AGREEMENT [ ] DEFAULT [ ] CONTESTED HEARING [ ] Reporter/Interpreter Present ______

APPEARANCES: Husband: [illegible] and Attorney: [illegible]
Wife: [illegible] and Attorney: [illegible]
Other: ______ and Attorney: ______

The Court will execute a Confidentiality Order to preserve the property, marital assets and protect the parties. The Court enters said order prohibiting the parties from broadcasting information that will harm marital assets and property and cause irreparable harm to the estate of the parties. The Court restricts the parties from said communications that could damage the assets with business associates, clients, customers and potential business transactions.

[ ] Attorney for [ ] Husband [ ] Wife to reduce this Report to written Order and submit to other side and Court within fourteen (14) days. Atty Rachelle
[ ] Order requires proof of submission to other attorney OR signature of all [ ] attorneys or [ ] parties for entry.

November 6, 2013 — [signature]

Date — Associate Judge

______ Agreed ______ Agreed ______ Agreed ______ Agreed

PAGE 1 OF 1 [ ] SUBJECT TO PROOF OF SERVICE (Revised 01/12)

D

Trial Court's Order on De Novo Hearing on Confidentiality Order

(Case # DF-13-02616)

(2014/02/14)

APPENDIX
D

NO. DF-13-02616-Y

IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
	§	
V.T.D.	§	
AND	§	
B.B.M.	§	330TH JUDICIAL DISTRICT
	§	
AND IN THE INTEREST OF	§	
V.I.P.M,	§	
A CHILD	§	DALLAS COUNTY, TEXAS

Order on De Novo Hearing of Motion to Enter Confidentiality Order and Temporary Injunction

On January 17, 2014, the Court held a de novo hearing at the request of B.B.M. on V.T.D.'s Motion to Enter Confidentiality Order.

Appearances

Petitioner, V.T.D., appeared in person and through attorneys of record, Patricia Linehan Rochelle and David H. Findley, and announced ready.

Respondent, B.B.M., appeared in person and through attorney of record, Carol Wilson, and announced ready.

Jurisdiction

The Court, after examining the record and hearing the evidence and argument of counsel, finds that all necessary prerequisites of law have been legally satisfied and that the Court has jurisdiction of this case and of all the parties.

November 6, 2013 Confidentiality Order

IT IS ORDERED that the Confidentiality Order rendered by the Associate Judge on November 6, 2013 and signed by the Court on December 9, 2013 is VACATED.

Temporary Injunction

The Court finds that, based on the record and hearing the evidence and argument of counsel that the following temporary injunction should be issued.

IT IS ORDERED that the V.T.D. and her agents, servants, employees, and those persons in active concert or participation with her who receive actual notice of this order by personal service or otherwise are temporarily enjoined from:

Making disparaging remarks, whether oral or written, regarding B.B.M., or any property and/or entity owned by B.B.M., V.T.D., or property and/or entity owned by the parties jointly.

IT IS ORDERED that the B.B.M. and his agents, servants, employees, and those persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise are temporarily enjoined from:

Making disparaging remarks, whether oral or written, regarding V.T.D., or any property and/or entity owned by B.B.M., V.T.D., or property and/or entity owned by the parties jointly.

Petitioner and Respondent waive issuance and service of the writ of injunction, by stipulation or as evidenced by the signatures below. IT IS ORDERED that Petitioner and Respondent shall be deemed to be duly served with the writ of injunction.

These Temporary Orders shall continue in force until the signing of the Final Decree of Divorce or until further order of this Court.

SIGNED this FEB 04 2014 day of _____, 2014.

_____
JUDGE PRESIDING

AGREED AS TO FORM ONLY:

Patricia Linehan Rochelle
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ACCEPTANCE OF SERVICE OF WRIT OF INJUNCTION:

V.T.D., Petitioner

B.B.M., Respondent

E

Miller's Trial Court Memorandum Opposing Prior Restraint of Speech

(Case # DF-13-02616)

(2014/03/31)

APPENDIX
E

NO. DF-13-02616-Y

IN THE MATTER OF THE MARRIAGE OF	'	**IN THE DISTRICT COURT**
V.T.D.	'	
AND	'	**330TH JUDICIAL DISTRICT**
B. B. M.	'	
AND IN THE INTEREST OF V. I. P. M., A CHILD	'	**DALLAS COUNTY, TEXAS**

RESPONDENT'S MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S REQUEST FOR PRIOR RESTRAINT INJUNCTION REGARDING "DISPARAGING REMARKS"

TO THE HONORABLE JUDGE OF SAID COURT:

Respondent, B.B.M., files this MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S REQUEST FOR PRIOR RESTRAINT INJUNCTION REGARDING DISPARAGING REMARKS, and in support submits the following:

Summary

On February 26, Petitioner and Respondent reached a mediated settlement agreement resolving the disputes between them, except that the parties reserved for trial certain permanent injunctive relief sought by Petitioner, prohibiting "disparaging remarks." Specifically, Petitioner seeks a permanent injunction enjoining Respondent from "[m]aking disparaging remarks, whether oral or written, regarding B.B.M., or any

property and/or entity owned by B.B.M., V.T.D., or property and/or entity owned by the parties jointly."[1] Respondent does not agree to this restraint on his freedom of speech. The relief sought by Petitioner would clearly constitute an unconstitutional restraint on Respondent's right to free speech pursuant to the U.S. and Texas constitutions. The relief is constitutionally infirm for the additional reasons that the term "disparaging" is overly broad and unduly vague. As a result, the Court would abuse its discretion in rendering such injunctive relief, and should not do so. Respondent seeks judgment on the parties' mediated settlement agreement without the "disparagement injunction" sought by Petitioner.

Petitioners Proposed Injunction is Unconstitutional

A. *The proposed injunction constitutes impermissible prior restraint on speech.*

Petitioner's proposed injunction constitutes an unconstitutional prior restraint on speech; an unconstitutional content-based regulation of speech; and an overly broad, unenforceable, and constitutionally impermissibly vague standard. As a result the injunction clearly violates Respondent Miller's free speech rights as protected by the First and Fourteenth Amendments of the United States Constitution and article I, section 8 of the Texas Constitution. *See Grigsby v. Coker*, 904 S.W.2d 619, 620-21

[1] Respondent does not contest the permanent injunction with respect to discussing the divorce

(Tex. 1995) (per curiam) (holding that a trial court abused its discretion by entering a temporary gag order in a child custody modification proceeding that violated the parties' constitutional rights to free speech; mandamus granted) (copy attached hereto as Exhibit A); *see also Davenport v. Garcia*, 834 S.W.2d 4, 9-11 (Tex. 1992).

A judicial order that forbids certain future communications constitutes a prior restraint on speech. *Alexander v. United States*, 509 U.S. 544, 550, 113 S. Ct. 2766, 2771, (1993). There is no "family-law exception." That is, a family court may not invade constitutional guaranties in the interest of enforcing civility in a family law case. *See Grigsby v. Coker*, 904 S.W.2d 619, 620-21 (Tex. 1995). In *Grigsby v. Coker*, the Texas Supreme Court considered very similar injunction language to that proposed by Petitioner, which prohibited the parties from referring to the other "in a derogatory manner." Without reservation, the Texas Supreme Court held that the injunction was an unconstitutional restraint on speech. The Court specifically stated that the order was overly broad because it prohibited the parties "from 'communicating with any person about the other in a derogatory manner." *Id.* at 620-21.

Moreover, *Grigsby* involved only a temporary injunction. *See id.* at 620. Nonetheless, the Court held that even this temporary deprivation of the party's right to

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with the children.

free speech constitutes an abuse of discretion. Obviously, the permanent injunction sought by Petitioner is an even greater and more serious constitutional violation. Accordingly, Petitioner's requested injunction should be denied.

B. *The proposed injunction is overly broad and unduly vague.*

The Texas Supreme Court made the following observation apropos to the "disparagement" injunction sought by Petitioner: "[W]hat constitutes 'coarse or offensive' communication, especially between warring spouses, is largely in the eye of the beholder." *In re Coppock*, 277 S.W.3d 417, 418 (Tex. 2009); *see also In re Peebles*, No. 14-10-00973-CV, 2010 Tex. App. LEXIS 9495, at * 11 (Tex. App.-Houston [14th Dist.] Dec. 2, 2010, orig. proceeding) (copy attached hereto as Exhibit B) ("What constitutes derogatory or disparaging language is largely 'in the eye of the beholder.' ") (citing *Coppock*).

To be enforceable, an injunction must be definite, clear, and precise, and must inform the defendant of the acts that the defendant is refrained from doing without requiring inferences or conclusions about which persons might differ. *Webb v. Glenbrook Owners Ass'n, Inc.*, 298 S.W.3d 374, 384 (Tex. App.-Dallas 2009, no pet.) ("The law demands clear and complete orders granting injunctions."); *see also* Tex. R. Civ. P. 683. If a court's order requires inferences or conclusions about which

reasonable persons might differ, it is insufficient to support a judgment of contempt for an alleged violation of the order. *Ex parte Chambers*, 898 S.W.2d 257, 260 (Tex.1995).

Petitioner's proposed injunction is far too vague to be enforceable. It would lead to interminable disputes between the parties as to what may or may not be "disparaging." A "disparaging: comment is too much in the eye of the beholder to constitute a standard for court enforcement.

Further, Respondent may not be prohibited from expressing his opinions. An opinion is protected speech. One has the right to state opinions about others, regardless of whether the subject of those opinions may consider the content of the opinion to be disparaging or derogatory. *See, e.g., In re Peebles*, No. 14-10-00973-CV, 2010 Tex. App. LEXIS 9495, at * 10-11.

Moreover, the term "disparaging" is too broad. *Cf. Grigsby*, 904 S.W.2d at 620-21. Petitioner's requested relief seems to be based on the premise that derogatory speech is necessarily false. This is an erroneous premise. "Disparage" is defined to mean: "to depreciate by indirect means (as invidious comparison) [:] speak slightingly about." *In re Peebles*, 2010 Tex. App. LEXIS 9495, at * 10 (quoting Merriam Webster Dictionary (Ninth ed. 1991)). There is nothing inherently false about disparaging

comments. The well-known expression, "The truth hurts," may well apply to disparaging statements. Thus, disparaging speech is as fully protected by the First Amendment and Texas Constitution as other speech, including derogatory comments, and is in no sense synonymous with defamation.

That Petitioner may find future comments made by Respondent to be derogatory, or even defamatory, does not entitle Petitioner to an injunction restraining such speech. Prior restraint on freedom of speech has long been disfavored in American law, and there exists a heavy presumption against its constitutionality. *Davenport v. Garcia*, 834 S.W.2d 4, 9, 27 (Tex. 1992). Court-ordered prior restraint will withstand scrutiny "only under the most extraordinary circumstances." *See id.* at 10. A "gag" order in a civil judicial proceeding, such as that proposed by Petitioner, "will withstand constitutional scrutiny only where there are specific findings supported by evidence that (1) an imminent and irreparable harm to the judicial process will deprive litigants of a just resolution of their dispute, and (2) the judicial action represents the least restrictive means to prevent that harm." *Id.* at 10. There exist no such evidence or circumstances here.

Moreover, Texas law strongly favors post-speech remedies over prior restraint. In order to protect the important constitutional right of free speech, a person injured by

speech must ordinarily be content with post-speech remedies. *See id.* ("The mandate that findings of irreparable harm be made is based on our state constitutional preference for post-speech remedies.") To the extent that Petitioner considers any future comments made by Respondent to be defamatory or falsely disparaging, Petitioner must pursue any post-speech remedies which she may have. She may not resort to unconstitutional prior restraint of speech to preempt Respondent's comments.

WHEREFORE PREMISES CONSIDERED, Respondent B.B.M. prays the Court deny Petitioner's requested relief for a permanent injunction enjoining Respondent's speech, and render judgment on the parties' mediated settlement agreement. Respondent further prays for any and all further relief in law or in equity to which he may be justly entitled.

Respectfully submitted,

/s/ Bruce K. Thomas
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Certificate of Service

The above and foregoing was sent to all attorneys of record on the 28th day of March, 2014 in accordance with TRCP 21.

Signed this 28th day of March, 2014.

/s/ Bruce K. Thomas
Bruce K. Thomas

EXHIBIT A

Grigsby v. Coker, 904 S.W.2d 619 (Tex. 1995)

CYNDEE GRIGSBY AND ROBERT R. WIGHTMAN, RELATORS v. THE HONORABLE B. F. COKER, JUDGE, RESPONDENT

No. 95-0057

SUPREME COURT OF TEXAS

904 S.W.2d 619; 1995 Tex. LEXIS 59; 38 Tex. Sup. J. 629

May 11, 1995, Delivered

DISPOSITION: [**1] Pursuant to Rule 122, Texas Rules of Appellate Procedure, without hearing oral argument, a majority of the Court grants the motion for leave to file and conditionally grants writ of mandamus.

HEADNOTES

Robert R. Wightman, Dallas, for relators.

R. Clayton Hutchins, Grand Prairie, Christopher Johnsen, Austin, for respondent.

OPINION

[*620] ON PETITION FOR WRIT OF MANDAMUS

PER CURIAM

In a child custody modification proceeding the trial court has enjoined the father and mother from communicating with any person about the other party in a derogatory manner either in person or by and through their attorneys using such terms as pedophile or other derogatory or defamatory words except when discussing the case with the counsellors or experts." The mother and her attorney petition this Court for mandamus directing the trial court to vacate this gag order", arguing that it violates their state and federal constitutional rights of free speech, and that it was issued without the notice and hearing required by due process. We conditionally grant relief.

Ever since Cyndee Grigsby and William Cox were awarded joint managing conservatorship of their three children in their divorce, their disputes over visitation and possession of the children have been marked by intense acrimony. After complaining unsuccessfully to Child Protective [**2] Services that William had sexually abused one of the children, Cyndee moved for a modification in custody and visitation. At a hearing on temporary orders the following colloquy occurred:

> [William's attorney]: There is one other request that we have of the Court . . . and that is that both [Cyndee's attorney] and his client continue to refer to [William] as a pedophile, and they have told neighbors and witnesses, and they have promised to send documents to persons not parties to this lawsuit, nor experts in this lawsuit, predicting [that William] is a child molester and a pedophile and we would ask --
>
> [Cyndee's attorney]: Your Honor, there is no motion for that and we have no witness to verify it, and I really want to be able to defend myself because it's totally --
>
> [William's attorney]: We would ask the Court just to do simply a mutual injunction, as to both parties, not to characterize the other party to persons who are not experts in the case, or not parties, in any derogatory or defamatory manner, and that should be able to be accomplished without an injunction.

> [Cyndee's attorney]: I have a need to investigate for my client. We're [**3] alleging pedophilia and there are other young ladies in the neighborhood . . . who may have been victims. What they are asking is that I not be allowed to investigate.
>
> THE COURT: No, they're not. They're asking -- you can ask questions without characterizing or making allegations. The request for the mutual injunction is granted.

In its temporary custody and visitation order signed seven weeks later the trial court included the gag order" we quoted at the beginning.

Not long afterward William moved to have Cyndee's attorney held in contempt for violating the gag order, and Cyndee moved to have the order vacated. At a hearing on the motions William's attorney argued that documents characterizing William as a pedophile and the child as a victim of incest and abuse had been distributed in the neighborhood where the children live, and that Cyndee's attorney had defamed everyone involved in the case. The guardian ad litem characterized Cyndee's attorney's behavior as outrageous and damaging to the children. William's attorney argued that the gag order was not an unconstitutional prior restraint because it was issued in a family case, and the guardian ad litem argued that [**4] even if it was unenforceable it should not be vacated. No one offered any evidence. The trial court refused to vacate the injunction by order issued December 29, 1994.

Gag orders in civil judicial proceedings are valid only when an imminent and irreparable harm to the judicial process will deprive litigants of a just resolution of their dispute, and the judicial action represents the least restrictive means to prevent that harm. *Davenport v. Garcia, 834 S.W.2d 4, 9 (Tex. 1992)*. Such order must be supported by evidence and specific findings. The trial court in this case made no attempt to comply with the requirements of *Davenport*, either before or after the order issued. The order is overly broad. It prohibits William and Cyndee, and perhaps their attorneys (although the order is not clear), from "communicating with any person about the other [*621] party in a derogatory manner". As the parties have little to say about one another that is not derogatory, the order essentially prohibits them from speaking about one another at all.

William argues that a court has broader power to issue gag orders in family cases, and that procedural protections of notice and an evidentiary hearing [**5] can be dispensed with when gag orders are included in temporary orders adopted under section 11.11 of Texas Family Code. Section 11.11 states in part:

> (a) In a suit affecting the parent-child relationship, the court may make any temporary order . . . for the safety and welfare of the child, including but not limited to an order: . . .
>
> (3) restraining any party from molesting or disturbing the peace of the child or another party . . . .
>
> (b) Except [in circumstances not applicable here], temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. . . . A temporary restraining order granted under this section need not:
>
> (1) define the injury or state why it is irreparable; or
>
> (2) state why the order was granted without notice.

While section 11.11 does give trial courts broad powers in family cases, it does not authorize them to invade constitutional guarantees. The trial court here could have adopted [**6] an order which complied with *Davenport*, but it failed to do so. This was a clear abuse of discretion.

The faults in this gag order are likely a function of the procedure, or lack of procedure, used in adopting it: no formal motion, no prior notice, and no formal hearing or evidence. There is no indication that exigent circumstances warranted an abbreviation in procedures authorized by section 11.11, when seven weeks passed between the date the trial court stated it would issue a gag order and the date the order was signed.

As in *Davenport*, we conclude that relators have no adequate remedy by appeal, and that relief is therefore

appropriate. *See also Kennedy v. Eden, 837 S.W.2d 98 (Tex. 1992).*

The respondent named by relators in this proceeding is the active judge of the trial court, who recused himself before any of the proceedings with which we are concerned occurred. The assigned judge who issued the gag order also recused himself shortly thereafter. Relators have named the subsequent assigned judge who refused to vacate the gag order as a respondent in a related mandamus proceeding. The relief we grant today is directed to the last judge to rule on the gag order.

[**7] Accordingly, a majority of the court grants relators' motion for leave to file, and without hearing oral argument, conditionally grants a writ of mandamus directing the trial court to withdraw its order of December 29, 1994, and to issue an order vacating paragraph 9 of the order of September 22, 1994. TEX. R. APP. P. 122. The writ will issue only if the trial court fails promptly to comply.

Opinion delivered: May 11, 1995

EXHIBIT B

In re Peebles, No. 14-10-00973-CV, 2010 Tex. App. LEXIS 9495, at * 11 (Tex. App.-Houston [14th Dist.] Dec. 2, 2010, orig. proceeding)

FOCUS - 3 of 14 DOCUMENTS

IN RE SHARON PEEBLES, Relator

NO. 14-10-00973-CV

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT, HOUSTON

2010 Tex. App. LEXIS 9495

December 2, 2010, Memorandum Opinion Filed

SUBSEQUENT HISTORY: Related proceeding at *Peebles v. Dietrich, 2011 Tex. App. LEXIS 788 (Tex. App. Houston 14th Dist., Feb. 3, 2011)*
Writ of habeas corpus denied, Stay lifted by *In re Peebles, 2011 Tex. LEXIS 976 (Tex., Dec. 16, 2011)*

COUNSEL: For relator: Maurice L. Bresenhan, Jr., Houston, TX.

For real party in interest: Sam M. (Trey) Yates, III, Estelee Gum Garrison, Houston, TX.

JUDGES: [*1] Panel consists of Justices Anderson, Boyce, and Christopher.

OPINION

ORIGINAL PROCEEDING

WRIT OF HABEAS CORPUS

MEMORANDUM OPINION

On October 7, 2010, relator Sharon Peebles was held in contempt and sentenced to 60 days in jail for violating a possession order. Among other things, the possession order required her to (1) give notice to the child's other parent and the school if the child was not to be returned to school when her visitation ended, (2) give 72 hours' notice of out-of-county travel, and (3) refrain from making derogatory or disparaging remarks about the other parent in the presence of or within the hearing distance of the child. On October 8, 2010, Peebles filed a writ of habeas corpus in this court challenging the trial court's commitment order.

Background

Peebles and real party Kathryn Dietrich adopted a daughter nine years ago when the child was one year old. On May 17, 2006, the parties entered into an Agreed Order in Suit Affecting the Parent-Child Relationship (SAPCR). The order named Dietrich and Peebles as joint managing conservators of the child. The order required each conservator to comply with all terms and conditions of the modified standard possession order. The order [*2] imposed the following requirements on Peebles:

> Notice to School and KATHRYN DIETRICH. If SHARON PEEBLES' 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, SHARON PEEBLES shall immediately notify the school and KATHRYN DIETRICH that the child will not be or has not been returned to school.
>
> Overnight Travel Notification. If either conservator intends to travel outside the boundaries of Harris County, Texas. the traveling conservator is ORDERED to provide to the other conservator, no later than seventy-two (72) hours prior to the scheduled time of travel of that conservator's intent to travel with the child and shall provide to the other conservator, the destination of the travel including telephone number for emergency contact, date and time of departure, date and time of return, and how the conservator and child will be traveling.

Further, the SAPCR permanently enjoined both parties from

> [m]aking any derogatory or disparaging remarks about the other conservator, the other conservator's family, friends, or significant other, in the presence of or, within the hearing distance of the child, or from allowing [*3] any person in the presence of or within the hearing distance of the child to make any derogatory or disparaging remarks about the other conservator or the other conservator's family, friends, or significant other.

On August 4, 2010, Dietrich filed an amended motion for enforcement alleging that Peebles violated the above-quoted portions of the SAPCR. On October 7, 2010, the trial court held a hearing on Dietrich's motion at which Dietrich testified about an incident that occurred at the child's school. The school hosted a cultural event on an evening when Peebles was to have visitation with the child. Both Dietrich and Peebles attended the event. The child accompanied Peebles, but approached Dietrich to tell Dietrich about artwork displayed in the school hallway. At that moment, Peebles grabbed the child and said, "[Y]ou know how much I hate Kathy. If she's here we're leaving." Peebles then forcibly removed the child from the school. Dietrich's testimony about the incident was corroborated by another parent whose child attends the school.

Dietrich testified about another event that occurred at Peebles' home on the night an amicus attorney was scheduled to visit the child in Peebles' [*4] home. Dietrich drove the child to Peebles' home and rang the doorbell. Peebles and a companion answered the door with their dog. The dog was barking, and Peebles instructed the dog, "Kill. Kill. Kill."

Dietrich also testified that Peebles' possession of the child ended at the time school was to resume on March 12, 2010. Although the child was not ill, Peebles did not take the child to school that day. Peebles failed to notify Dietrich or the school that the child would not attend school that day. During Peebles' testimony, she was asked whether she took the child to school on March 12, 2010. Peebles refused to answer the question and invoked her *Fifth Amendment* privilege against self-incrimination.

Dietrich further testified that Peebles failed to give her 72 hours' notice when she traveled outside Harris County with the child. With regard to this incident, both parents agreed on the facts; they disagreed about the interpretation of those facts. Peebles had an extended summer possession of the child for July 2010. In June, Peebles notified Dietrich that she intended to spend the month of July with her mother in Waco. The child's birthday is July 29. On her birthday, Dietrich is entitled [*5] to a two-hour visitation with the child. Therefore, on July 29, Peebles drove the child to Houston and delivered her at 6:00 p.m. to Dietrich for her visitation. When Dietrich returned the child at 8:00 p.m., Peebles drove back to Waco. Peebles did not give 72 hours' notice of her return trip to Waco.

At hearing's conclusion, the trial court found Peebles violated the SAPCR by failing to notify the school and Dietrich that the child would not attend school on March 12, 2010; failing to give 72 hours' notice of travel outside the county; and using derogatory and disparaging remarks at the school and at her home. The court assessed punishment for each separate violation at 60 days in the Harris County Jail, with each period of confinement to run concurrently.

Although the sentences were to run concurrently, the court also ordered the total sentence "not to exceed a cumulative total of 180 days, with 120 days of said sentence to be probated." The court further ordered that Peebles "shall remain on probation for 8 years following her release from incarceration under community supervision." The court ordered that any further violations of the SAPCR would be considered a violation of probation [*6] and would require Peebles to serve "the remainder of the 180 day sentence."

Habeas Standard

This court will issue a writ of habeas corpus if the contempt order is void because it deprives the relator of liberty without due process of law or because it was beyond the power of the court to issue. *Ex parte Swate, 922 S.W.2d 122, 124 (Tex. 1996)*. In a habeas corpus action challenging confinement for contempt, the relator bears the burden of showing that the contempt order is void. *In re Coppock, 277 S.W.3d 417, 418 (Tex. 2009)*. The contempt order must clearly state in what respect the court's earlier order has been violated and must clearly specify the punishment imposed by the court. *Ex parte Shaklee, 939 S.W.2d 144, 145 (Tex. 1997)*. Moreover, a person cannot be sentenced to confinement unless the order unequivocally commands that person to perform a duty or obligation. *Ex parte Padron, 565 S.W.2d 921, 921 (Tex. 1978)*.

Analysis

Peebles raises two issues challenging the trial court's contempt order. First, she contends that the commitment

order is void. Second, she contends that she was entitled to a jury trial on certain fact issues.

I. Is the Commitment Order Void?

A. Failure to Provide Notification [*7] of School Absence

Peebles argues the commitment order is void because the language contained in the amended motion for enforcement does not contain decretal language. Peebles challenges the trial court's finding that she violated the order by failing to notify the school or Dietrich that the child would not attend school on March 12, 2010. The SAPCR orders each conservator to comply with all terms and conditions of the Modified Standard Possession Order. One of the general conditions of the possession order requires Peebles to return the child to school if her visitation period ends on a regular school day. If the child will not attend school, Peebles is ordered to notify Dietrich and the school that she will not attend. The trial court, in a previous order, found the requirement that Peebles return the child to school is enforceable by contempt because of the decretal language found in paragraph one of the Modified Standard Possession Order. [1] Peebles does not dispute this finding, but argues similar decretal language is required in the motion for enforcement.

> 1 This order was signed by the Honorable Frank Rynd, who resigned from the bench between the time he signed the previous order [*8] and the time the current order was signed. Peebles did not challenge Judge Rynd's finding at the time, nor does she challenge it in this proceeding.

Due process requires that before a court can assess punishment for contempt not committed in its presence, the accused must have full and complete notification of the subject matter and the means of notification must state when, how and by what means the individual is guilty of the alleged contempt. *Ex parte Edgerly, 441 S.W.2d 514, 516 (Tex. 1969)*. A constructive contemnor must be given complete notification and a reasonable opportunity to meet the charges by way of defense or explanation. *Ex parte Gordon, 584 S.W.2d 686, 688 (Tex. 1979)*. A contempt judgment rendered without proper notification is a nullity. *Id.* Among the due process rights accorded an alleged contemnor is the "right to reasonable notice of each alleged contumacious act." *Ex parte Brister, 801 S.W.2d 833, 835 (Tex. 1990)*(Cook, J., concurring). Without that notice, the contempt judgment is void. *Ex parte Gordon, 584 S.W.2d at 688*.

The motion for enforcement alleged that Peebles violated the SAPCR by failing to (1) return the child to school on March 12, 2010, and (2) notify [*9] the school and Dietrich immediately that the child would not be returned to school that day. The motion specifically quoted section g(9) of the order, which requires Peebles to return the child to school at the conclusion of her visitation or notify Dietrich and the school that the child will not be returned to school. The motion for enforcement provided Peebles with sufficient notice of when, how, and by what means she was guilty of the alleged contempt. With regard to the violation of condition g(9) governing absence from school, the contempt order is enforceable.

B. Derogatory or Disparaging Remarks

Peebles argues that this finding of contempt is not enforceable because neither comment is derogatory or disparaging. We agree.

The order underlying a contempt judgment must set forth the terms of compliance in clear, specific, and unambiguous terms so that the person charged with obeying the order will readily know exactly what duties and obligations are imposed upon her. *Ex parte Chambers, 898 S.W.2d 257, 259 (Tex. 1995)*. Determining whether an order is enforceable by contempt depends on whether the order is definite and certain, and the focus is on the wording of the judgment itself. [*10] *Ex parte Reese, 701 S.W.2d 840, 841 (Tex. 1986)*. If the court's order requires inferences or conclusions about which reasonable persons might differ, it is insufficient to support a judgment of contempt. *Chambers, 898 S.W.2d at 260*. Only reasonable alternative constructions, however, prevent enforcement of the order. *Id.* "The order need not be full of superfluous terms and specifications adequate to counter any flight of fancy a contemnor may imagine in order to declare it vague." *Id*

The court's order prohibits either party from making "any derogatory or disparaging remarks" about the other parent in the presence or hearing of the child. The order does not define derogatory or disparaging remarks. The Merriam-Webster dictionary defines "derogatory" as "detracting from the character or standing of something[.]" *Merriam Webster Dictionary* (Ninth ed. 1991). "Disparage" is defined as "to depreciate by indirect means (as invidious comparison) speak slightingly about." *Id* During the hearing on the enforcement order, Dietrich testified that the sole basis for her allegation that Peebles made derogatory and disparaging remarks was Peebles' statement of opinion about Dietrich.

Peebles' statement, [*11] "I hate Kathy" was an expression of Peebles' opinion. It was not a statement that detracted from Dietrich's character, nor was it a deprecation by indirect means. If anything, it was a statement that detracted from Peebles' character in that she would utter such an opinion to her child. The state-

ment, "Kill. Kill. Kill." was made to the dog and was not made about anyone. What constitutes derogatory or disparaging language is largely "in the eye of the beholder." *See Coppock, 277 S.W.3d at 418.* In this case, Peebles did not make a derogatory or disparaging remark about Dietrich in the child's presence. She merely expressed her opinion that she "hated" Dietrich. Under these facts, Peebles did not violate the SAPCR.

C. Violation of 72-Hour Notice Requirement

Peebles argues the trial court's construction of the 72-hour notice requirement leads to an impermissibly absurd result. To be enforceable by contempt, a decree must "set forth the terms of compliance in clear, specific and unambiguous terms so that the person charged with obeying the decree will readily know exactly what duties and obligations are imposed upon him." *Ex parte Acker, 949 S.W.2d 314, 317 (Tex. 1997).* The order may not [*12] be susceptible to more than one interpretation. *Ex parte Glover, 701 S.W.2d 639, 640 (Tex. 1985).*

Peebles gave the required 72-hour notice when she told Dietrich that she would keep the child in Waco for the month of July. According to the possession order, Peebles has an extended period of possession for the entire month. The possession order further requires Peebles to "present possession of the child on the child's birthday," and "that conservator 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 conservator picks up the child from the other conservator's residence and returns the child to that same place." In driving the child to Houston on her birthday, Peebles complied with this provision.

To uphold the contempt finding, this court would have to read the order as requiring a second 72-hour notice period for returning with the child to Waco. The appropriate travel notice was given at the beginning of the month, and the child was returned promptly at the end of the month. Therefore, the portion of the order finding Peebles in contempt for failure to give 72 hours notice of her return to Waco is not enforceable.

D. Severance [*13] of Void Portions

The void portions of the order relating to contempt do not make the entire order void because the trial court listed the contempt sentences separately. The void portions are capable of being severed from the valid portions of the order. *See In re Ross, 125 S.W.3d 549, 553 (Tex. App.--Austin 2003, orig. proceeding).* Accordingly, we sustain Peebles' first issue in part and modify the trial court's order by striking the violation of the notice requirement and violation of the permanent injunction as void.

E. Contempt Sentence

The trial court sentenced Peebles as follows:

> IT IS ORDERED that punishment for each separate violation is assessed at confinement in the county jail of Harris County, Texas, for a period of 60 days.
>
> IT IS THEREFORE ORDERED that SHARON PEEBLES is committed to the county jail of Harris County, Texas for a period of 60 days for each separate violation enumerated above.
>
> IT IS ORDERED that each period of confinement assessed in this order shall run and be satisfied concurrently, not to exceed a cumulative total of 180 days, with 120 days of said sentence to be probated.
>
> * * * *
>
> IT IS ORDERED that SHARON PEEBLES shall remain on probation for 8 years following [*14] her release from incarceration under community supervision. It is further ORDERED that any further violations of the Court's order of May 17, 2006 shall be considered a violation of such probation and SHARON PEEBLES shall be incarcerated to serve the remainder of the 180 day sentence.

Because we have determined that two of the three violations found in the order are void, we reform Peebles' sentence to reflect confinement of no more than 60 days in the Harris County Jail.

Further, we find no authority for the trial court to place Peebles on probation for eight years. The only authority in the Texas Family Code for probation is in *sections 157.211 through 157.217.* These sections of the code apply in child support and paternity cases. *See Ex parte Byram, 679 S.W.2d 762, 765 (Tex. App.--Fort Worth 1984, orig. proceeding).* Therefore, the portion of the trial court's order requiring Peebles to remain on probation for eight years is not enforceable.

II. Was Peebles Entitled to a Jury Trial

In her second issue, Peebles argues she was entitled to a jury trial on questions of fact raised in the contempt hearing. The right to a jury trial depends upon whether the offense can be classified as "petty" [*15] or "serious." *Ex parte Werblud, 536 S.W.2d 542, 546 (Tex.*

1976). A sentence up to six months is a petty offense, and may be imposed without a jury trial. *Id* Because Peebles was not sentenced to more than 180 days in jail, she is not entitled to a jury trial. Peebles argues that *Werblud* was wrongly decided. We are obliged to follow binding precedent from the Texas Supreme Court on this issue.

Conclusion

We conclude the trial court's contempt findings of violations of the permanent injunction and the 72-hour travel notification are void as unenforceable. Accordingly, we modify the trial court's order by (1) striking as void the trial court's findings that Peebles is in contempt for violation of the permanent injunction and the 72-hour notice requirement, (2) reforming Peebles' sentence to reflect confinement for no more than 60 days in the Harris County Jail, and (3) striking the requirement that Peebles remain on probation for eight years. In all other respects, Peebles' petition for writ of habeas corpus is denied. *See Tex. R. App. P. 52.8(c)*.

PER CURIAM

TRANSMISSION VERIFICATION REPORT

TIME : 03/31/2014 09:45
NAME : CAROL WILSON
FAX : 2145992149
TEL : 2143030142
SER.# : BROJ6J543412

DATE,TIME	03/31 09:43
FAX NO./NAME	2145224480
DURATION	00:02:43
PAGE(S)	19
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MODE	STANDARD ECM

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March 31, 2014

Patricia L. Rochelle
David Findley
Rochelle & Rankin, LLP
3811 Turtle Creek Blvd., Ste 1010
Dallas, TX 75219-4519
Via Fax 214.522.4480

Re: VTD v. BBM, Cause No. DF-13-02616-Y

Dear Patty and David:

Following please find a file-marked copy *of Respondent's Memorandum of Law in Opposition to Petitioner's Request for Prior Restraint Injunction Regarding "Disparaging Remarks"*.

F

Dunn's Second Amended Petition to Modify the Parent-Child Relationship

(Case # DF-13-02616)

(2015/07/15)

APPENDIX
F

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE INFORMATION

Cause No. DF-13-02616-Y

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
V.I.P.M,	§	330TH JUDICIAL DISTRICT
	§	
A CHILD	§	DALLAS COUNTY, TEXAS

Second Amended Petition to Modify the Parent-Child Relationship

1. *Discovery Level*

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

2. *Objection to Assignment of Case to Associate Judge*

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

3. *Parties and Order to Be Modified*

This suit to modify a prior order is brought by V.T.D., Petitioner. The last three numbers of Petitioner's driver's license number are [redacted]. The last three numbers of Petitioner's Social Security number are [redacted]. Petitioner is the mother and joint managing conservator of the child and has standing to bring this suit. The requested modification will be in the best interest of the child.

Respondent is B.B.M.

The order to be modified is entitled *Agreed Final Decree of Divorce* and was rendered on April 2, 2014.

4. *Jurisdiction*

This Court has continuing, exclusive jurisdiction of this suit.

5. *Child*

The following child is the subject of this suit:

Name:	V. I. P. M.
Sex:	Female
Birth date:	[redacted]
County of residence:	Dallas County, Texas

6. *Parties Affected*

The following parties may be affected by this suit:

Name: B.B.M.

Relationship: father and joint managing conservator of the child

Process may be served on Respondent at 3355 Whitehall, Dallas, Texas 75229, or wherever he may be found.

7. *Health Insurance Information*

Information required by section 154.181(b) of the Texas Family Code is as follows: The child is covered by health insurance provided by Petitioner.

8. *Child's Property*

There has been no change of consequence in the status of the child's property since the prior order was rendered.

9. *Modification of Conservatorship, Possession and Access*

The order to be modified is based on a mediated settlement agreement. The circumstances of the child, a conservator, or other party affected by the order to be modified have materially and substantially changed since the date of the signing of the mediated settlement agreement on which the order to be modified is based.

Petitioner requests that the rights and duties of the respective conservators of the child be modified to provide as follows: Petitioner should be appointed sole managing conservator and Respondent should be appointed possessory conservator of the child.

Petitioner requests that the terms and conditions for access to or possession of the child be modified to provide as follows: Respondent should be denied access to the child. Alternatively, Respondent's periods of access should be continuously supervised by an entity or person chosen by the Court.

In the further alternative, and in the event the Court neither denies Respondent access to the child nor orders that Respondent's periods of possession of the child be supervised, Petitioner requests that the terms and conditions for access to or possession of the child be modified to provide as follows:

1. Respondent should be ordered to surrender the child to Petitioner, the child's nanny, or any third party that Petitioner designates, at Respondent's residence at the end of each period of possession. Additionally, Petitioner should be ordered to surrender the child to Respondent, through the child's nanny or any third party that Petitioner designates, at Respondent's residence at the beginning of each period of Respondent's possession. Additionally, Respondent should be ordered to surrender the child to Petitioner, through the child's nanny or any third party that Petitioner designates, at 3355 Whitehall, Dallas, Texas 75229 at the end of each period of Respondent's possession.

2. Petitioner requests that the Court enter an order stating that Respondent waives a period of possession of the child in the event that he is not present at his residence to receive the child within 30 minutes of the beginning of that period of his possession of the child.

3. Respondent's extended summer period of possession of the child for the years 2016 and all future years should be modified such that Respondent is limited to two weeks of extended summer possession of the child, beginning on July 16 at 6:00 p.m. and ending on July 31 at 6:00 p.m.

The requested modification is in the best interest of the child.

10. Request for Temporary Injunction

Petitioner requests the Court to dispense with the necessity of a bond, and Petitioner requests that, after notice and hearing, Respondent and his agents, servants, employees, attorneys, and those persons in active concert or participation with him be restrained and enjoined, pending further of the Court from:

1. Withdrawing the child from enrollment at The Hockaday School.

2. Making disparaging remarks, whether oral or written, regarding Petitioner in the presence or within the hearing of the child or any third party.

3. Communicating directly with Petitioner or the child in a threatening or harassing manner.

4. Communicating any threat through any person to Petitioner or the child.

5. Engaging in conduct directed specifically toward Petitioner or the child, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass Petitioner or the child.

6. Going to or near, or within 1000 feet of, any location where Petitioner or the child is known by Respondent to be and from remaining within 1000 feet after Respondent becomes aware of Petitioner or the child's presence.

7. Going to or near the residence or place of employment or place of business of Petitioner. Petitioner requests the court to specifically prohibit Respondent from going to or near [redacted], Dallas, Texas 75230, and Talley Dunn Gallery, 5020 Tracy Street, Dallas, Texas 75205, and to specifically require Respondent to maintain a distance of 1000 feet therefrom.

8. Going to or near the residence or school the child normally attends or in which the child normally resides. Petitioner requests the Court to specifically prohibit Respondent from going to or near [redacted], Dallas, Texas 75230 and The Hockaday School, 11600 Welch Road, Dallas, Texas 75229, and to specifically require Respondent to maintain a distance of 1000 feet therefrom.

9. Making any social media posts, statements, websites, blogs, newspapers or radio regarding Petitioner or any pending litigation. Petitioner requests the court to order Respondent to immediately take down all social media posts, statements, websites, blogs, newspapers or radio regarding Petitioner or any pending litigation.

10. Communicating directly with The Hockaday School board leadership, The Hockaday School's administration, or any third party regarding Petitioner or any pending litigation.

11. Request for Temporary Orders

Petitioner requests the Court, after notice and hearing, to make temporary orders for the safety and welfare of the child, including but not limited to the following:

1. Appointing Petitioner temporary sole managing conservator and appointing Respondent possessory conservator.

2. Denying Respondent access to the child or, alternatively, rendering a possession order providing that Respondent's periods of visitation be continuously supervised.

Alternatively, the Court should order that the child's nanny or any third party that Petitioner designates shall surrender the child to Respondent at Respondent's residence at the beginning of each period of Respondent's possession of the child and that the child's nanny or any third party that Petitioner designates shall pick up the child from Respondent's residence at the end of each period of Respondent's possession of the child. The Court should further order Respondent to surrender the child to the child's nanny or any third party that Petitioner designates at the end of each period of Respondent's possession of the child at 3355 Whitehall, Dallas, Texas 75229.

3. Ordering the psychological evaluation of BRADLEY BRIGGLE MILLER to be performed by Benjamin Albritton, Psy.D.

With regard to the requested temporary order for managing conservatorship, Petitioner would show the Court the following:

These temporary orders are necessary because the child's present circumstances would significantly impair the child's physical health or emotional development and the requested temporary order is in the best interest of the child.

12. Request for Permanent Injunction

Petitioner requests the Court, after trial on the merits, to grant the following permanent injunctions: Respondent and his agents, servants, employees, attorneys, and those persons in active concert or participation with him should be permanently enjoined from:

1. Withdrawing the child from The Hockaday School;

2. Making disparaging remarks, whether oral or written, regarding Petitioner in the presence or within the hearing of the child or any third party.

3. Communicating directly with Petitioner or the child in a threatening or harassing manner.

4. Communicating any threat through any person to Petitioner or the child.

5. Engaging in conduct directed specifically toward Petitioner or the child, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass Petitioner or the child.

6. Going to or near, or within 1000 feet of, any location where Petitioner or the child is known by Respondent to be and from remaining within 1000 feet after Respondent becomes aware of Petitioner or the child's presence.

7. Going to or near the residence or place of employment or place of business of Petitioner. Petitioner requests the court to specifically prohibit Respondent from going to or near [redacted], Dallas, Texas 75230, and Talley Dunn Gallery, 5020 Tracy Street, Dallas, Texas 75205, and to specifically require Respondent to maintain a distance of 1000 feet therefrom.

8. Going to or near the residence or school the child normally attends or in which the child normally resides. Petitioner requests the Court to specifically prohibit Respondent from going to or near [redacted], Dallas, Texas 75230 and The Hockaday School, 11600 Welch Road, Dallas, Texas 75229, and to specifically require Respondent to maintain a distance of 1000 feet therefrom.

9. Making any social media posts, statements, websites, blogs, newspapers or radio regarding Petitioner or any pending litigation.

10. Communicating directly with The Hockaday School board leadership, The Hockaday School's administration, or any third party regarding Petitioner or any pending litigation.

13. Dallas County Standing Order

A true and correct copy of the Dallas County Standing Order is attached hereto as "Exhibit A" and incorporated fully as if set forth herein.

14. Request for Attorney's Fees, Expenses, Costs, and Interest

It was necessary for Petitioner to secure the services of Patricia Linehan Rochelle, a licensed attorney, and the law firm of Rochelle & Rankin LLP to preserve and protect the child's rights. Respondent should be ordered to pay reasonable attorney's fees, expenses, and costs through trial and appeal, and a judgment should be rendered in favor of this attorney and against Respondent and be ordered paid directly to Petitioner's attorney, who may enforce the judgment in the attorney's own name. Petitioner requests postjudgment interest as allowed by law.

15. Prayer

Petitioner prays that citation and notice issue as required by law and that the Court enter its orders in accordance with the allegations contained in this petition.

Petitioner prays that the Court, after notice and hearing, grant a temporary injunction enjoining Respondent, in conformity with the allegations of this petition, from the acts set forth above while this case is pending.

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

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

Petitioner prays for general relief.

Respectfully submitted,

Patricia Linehan Rochelle
State Bar No. 13732050
David H. Findley
State Bar No. 24040901
Rochelle & Rankin LLP
3811 Turtle Creek Boulevard
Suite 1010
Dallas, Texas 75219
214-522-4488
214-522-4480 (facsimile)
prochelle@rochellerankin.com
dfindley@rochellerankin.com

ATTORNEYS FOR PETITIONER, V.T.D.

Certificate of Service

I certify that a true copy of the above was served on the following in accordance with the Texas Rules of Civil Procedure on July 15, 2015 as follows:

Via Regular Mail
Bradley Briggle Miller
3355 Whitehall
Dallas, Texas 75229

Patricia Linehan Rochelle

F2015/9

DALLAS COUNTY FAMILY DISTRICT COURT
GENERAL ORDERS
(Revised January 1, 2015)

DALLAS COUNTY STANDING ORDER REGARDING CHILDREN, PETS,PROPERTY AND CONDUCT OF THE PARTIES

No party to this lawsuit has requested this order. Rather, this order is a standing order of the Dallas County District Courts that applies in every divorce suit and every suit affecting the parent-child relationship filed in Dallas County. The District Courts of Dallas County giving preference to family law matters have adopted this order because the parties, their children and the family pets should be protected and their property preserved while the lawsuit is pending before the court. Therefore, it is **ORDERED:**

1. **NO DISRUPTION OF CHILDREN.** Both parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this case:

1.1 Removing the children from the State of Texas, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.

1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court.

1.3 Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.

1.4 Disturbing the peace of the children.

1.5 Making disparaging remarks regarding the other party in the presence or within the hearing of the children.

2. **PROTECTION OF FAMILY PETS OR COMPANION ANIMALS.** Both parties are ORDERED to refrain from harming, threatening, interfering with the care, custody, or control of a pet or companion animal, that is possessed by a person protected by this order or by a member of the family or household of a person protected by this order.

3. **CONDUCT OF THE PARTIES DURING THE CASE.** Both parties are ORDERED to refrain from doing the following acts:

3.1 Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner to communicate with the other party, whether in person, by telephone, or in writing.

3.2 Threatening the other party in person, by telephone, or in writing to take unlawful action against any person.

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

EXHIBIT A

3.4 Intentionally knowing or recklessly causing bodily injury to the other party or to a child of either party.
3.5 Threatening the other party or a child of either party with imminent bodily injury.

4. PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.

If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:

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

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

4.3 Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.

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

4.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real property, and whether separate or community, except as specifically authorized by this order.

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

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

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

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

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

4.11 Taking any action to terminate or limit credit or charge cards in the name of the other party.

4.12 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.

4.13 Discontinuing or reducing the withholding for federal income taxes on wages or salary while this suit is pending.

4.14 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.

4.15 Excluding the other party from the use and enjoyment of the other party's residence.
4.16 Opening or redirecting the mail addressed to the other party.

5. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** "Records" means any tangible document or recording and includes e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts: Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations. Falsifying any writing or record relating to the property of either party.

INSURANCE IN DIVORCE CASE. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts: Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order. Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children. Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property of persons including the parties' minor children.

SPECIFIC AUTHORIZATIONS IN DIVORCE CASE. If this is a divorce case, both parties to the marriage are specifically authorized to do the following: To engage in acts reasonable and necessary to the conduct of that party's usual business and occupation. To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit. To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation and medical care. To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.

SERVICE AND APPLICATION OF THIS ORDER. The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time the petition is filed, if the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented. This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of the court. This entire order will terminate and will no longer be effective once the court signs a final order.

EFFECT OF OTHER COURT ORDERS. **If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail.** Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.

PARTIES ENCOURAGED TO MEDIATE. The parties are encouraged to settle their disputes amicably without court intervention. The parties are encouraged to use alternative dispute resolution methods, such as mediation or informal settlement conferences (if appropriate), to resolve the conflicts that may arise in this lawsuit.

BOND WAIVED. It is **ORDERED** that the requirement of a bond is waived.

THIS DALLAS COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF PARTIES SHALL BECOME EFFECTIVE ON JANUARY 1, 2015.

Hon. James Martin
Judge, 254th District Court

Hon. Mary Brown
Judge, 301st District Court

Hon. Kim Cooks
Judge, 255th District Court

Hon. Tena Callahan
Judge, 302nd District Court

Hon. David Lopez
Judge, 256th District Court

1-21-15

Hon. Dohnise Garcia
Judge, 303rd District Court

Hon. Andrea Plumlee
Judge, 330th District Court

G

Trial Court's Order in Suit to Modify the Parent-Child Relationship
(Signed without jurisdiction)

(Case # DF-13-02616)

(2016/11/17)

APPENDIX
G

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. DF-13-02616-Y

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
V.I.P.M,	§	330TH JUDICIAL DISTRICT
	§	
A CHILD	§	DALLAS COUNTY, TEXAS

ORDER IN SUIT TO MODIFY PARENT-CHILD RELATIONSHIP

On October 18, 2016, the Court heard this case.

Appearances:

Petitioner, VIRGINIA TALLEY DUNN ("V.T.D."), appeared in person and through attorneys of record Patricia Linehan Rochelle and David H. Findley and announced ready for trial.

Respondent, BRADLEY BRIGGLE MILLER ("B.B.M."), appeared in person and announced ready for trial.

Jurisdiction

The Court, after examining the record and the evidence and argument of counsel, finds that it has jurisdiction of this case and of all the parties and that no other court has continuing, exclusive jurisdiction of this case. All persons entitled to citation were properly cited.

Jury

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

Record

The record of testimony was duly reported by the court reporter for the 330th Judicial District Court.

Child

The Court finds that the following child is the subject of this suit:

Name: [redacted] ("V.I.P.M.")
Sex: Female
Birth date: [redacted]
Home state: Texas

Findings

The Court finds that the material allegations in the petition to modify are true and that the requested modification is in the best interest of the child. IT IS ORDERED that the requested modification is GRANTED.

Parenting Plan

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

Conservatorship

The Court finds that the following orders are in the best interest of the child.

IT IS ORDERED that B.B.M. is removed as managing conservator and that V.T.D. is appointed Sole Managing Conservator and B.B.M. is appointed Possessory Conservator of the following child: V.I.P.M.

IT IS ORDERED that, at all times, V.T.D., as a parent sole managing conservator, and B.B.M., as a parent possessory conservator, shall each have the following rights:

1. the right to receive information from any other conservator of the child concerning the health, education, and welfare of the child;

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 child;

3. the right of access to medical, dental, psychological, and educational records of the child;

4. the right to consult with a physician, dentist, or psychologist of the child;

5. the right to consult with school officials concerning the child's welfare and educational status, including school activities;

6. the right to attend school activities;

7. the right to be designated on the child'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 child; and

9. the right to manage the estate of the child to the extent the estate has been created by the parent or the parent's family.

IT IS ORDERED that, at all times, V.T.D., as a parent sole managing conservator, and B.B.M, as a parent possessory conservator, shall each have the following duties:

1. the duty to inform the other conservator of the child in a timely manner of significant information concerning the health, education, and welfare of the child;

2. the duty to inform the other conservator of the child 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 Texas 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 notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the fortieth day after the date the conservator of the child 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;

3. the duty to inform the other conservator of the child if the conservator establishes a residence with a person who the conservator knows is the subject of a final protective order sought by an individual other than the conservator that is in effect on the date the residence with the person is established. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the thirtieth day after the date the conservator establishes residence with the person who is the subject of the final protective order. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE;

4. the duty to inform the other conservator of the child if the conservator resides with, or allows unsupervised access to a child by, a person who is the subject of a final protective order sought by the conservator after the expiration of the sixty-day period following the date the final protective order is issued. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the ninetieth day after the date the final protective order was issued. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE; and

5. the duty to inform the other conservator of the child if the conservator is the subject of a final protective order issued after the date of the order establishing conservatorship. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the thirtieth day after the date the final protective order was issued. 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, V.T.D., as a parent

sole managing conservator, and B.B.M., as a parent possessory conservator, shall each have the following rights and duties:

1. the duty of care, control, protection, and reasonable discipline of the child;

2. the duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure;

3. the right to consent for the child to medical and dental care not involving an invasive procedure; and

4. the right to direct the moral and religious training of the child.

IT IS ORDERED that V.T.D., as parent sole managing conservator, shall have the following exclusive rights and duty:

1. the right to designate the primary residence of the child;

2. the right to consent to medical, dental, and surgical treatment involving invasive procedures;

3. the right to consent to psychiatric and psychological treatment of the child;

4. the right to receive and give receipt for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child;

5. the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;

6. the right to consent to marriage and to enlistment in the armed forces of the United States;

7. the right to make decisions concerning the child's education;

8. except as provided by section 264.0111 of the Texas Family Code, the right to the services and earnings of the child;

9. except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, the right to act as an agent of the child in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government; and

10. the duty to manage the estate of the child to the extent the estate has been created by community property or the joint property of the parents.

Child's Passport

IT IS ORDERED that V.T.D. is authorized to apply for the renewal of the child's passport without B.B.M.'s consent. IT IS FURTHER ORDERED that V.T.D. has the exclusive

authority to renew the child's passport.

Once the child's passport is renewed, IT IS ORDERED that V.T.D. shall have the exclusive right to maintain possession of any passport of the child.

Modification of Possession and Access

IT IS ORDERED that the Standard Possession Order contained in the *Agreed Final Decree of Divorce* dated April 2, 2014 is modified as follows:

1. Extended Summer Possession by B.B.M.—

With Written Notice by April 15—If B.B.M. give V.T.D. written notice by April 15 of a year specifying an extended periods of summer possession for that year, B.B.M. shall have possession of the child for 28 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 two separate periods of 14 consecutive days each, separated by 14 days, 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 15—If B.B.M. does not give V.T.D. written notice by April 15 of a year specifying an extended period or periods of summer possession for that year, B.B.M. shall have possession for 28 days in that year with the first period of possession beginning at 6:00 p.m. on Sunday of the last full week in June (week defined as Sunday through Saturday) and ending at 6:00 p.m. 14 days later, and the second period of possession beginning at 6:00 p.m. on the third Sunday in July and ending at 6:00 p.m. 14 days later.

2. General Terms and Conditions

Surrender of Child by V.T.D. – V.T.D. is ORDERED to surrender the child to B.B.M. at the beginning of each period of B.B.M.'s possession at the residence of V.T.D. B.B.M. is ORDERED to remain in the car while picking up the child from V.T.D.'s residence. IT IS ORDERED that, if B.B.M. (or competent adult designated by B.B.M.) fails to appear at V.T.D.'s residence to pick up the child within 15 minutes of the beginning of his period of possession, that period of possession is waived by B.B.M.

Surrender of Child by B.B.M. – B.B.M. is ORDERED to surrender the child to V.T.D. at the residence of B.B.M. at the end of each period of possession. IT IS ORDERED that, if V.T.D. (or competent adult designated by V.T.D.) fails to appear at B.B.M.'s residence to pick up the child within 15 minutes of the beginning of her period of possession, that period of possession is waived by V.T.D.

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

The provisions of this order relating to conservatorship, possession, or access terminate

on the remarriage of B.B.M. to V.T.D. unless a nonparent or agency has been appointed conservator of the child under chapter 153 of the Texas Family Code.

Injunctive Relief

The Court finds that, because of the conduct of B.B.M., a permanent injunction against him should be granted as appropriate relief because there is no adequate remedy at law.

The permanent injunction granted below shall be effective immediately and shall be binding on B.B.M.; on his agents, servants, employees, and attorneys; and on those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise.

IT IS ORDERED that BRADLEY BRIGGLE MILLER is permanently enjoined from:

1. Withdrawing the child from enrollment at The Hockaday School.

2. Making disparaging remarks, whether oral or written, regarding V.T.D. in the presence or within the hearing of the child or any third party.

3. Communicating directly with V.T.D. or the child in a threatening or harassing manner.

4. Communicating any threat through any person to V.T.D. or the child.

5. Engaging in conduct directed specifically toward V.T.D. or the child, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass V.T.D. or the child.

6. Going to or near the residence or place of employment or place of business of V.T.D., and IT IS ORDERED that B.B.M. is prohibited from going near [redacted], Dallas, Texas 75230 and Talley Dunn Gallery, 5020 Tracy Street, Dallas, Texas, and B.B.M. shall maintain a distance of 1,000 feet therefrom. IT IS FURTHER ORDERED that the only exception to this prohibition is that B.B.M. may go to V.T.D.'s residence for the sole purpose of picking up the child at the beginning of his period of possession, and B.B.M. IS ORDERED to remain in the car while picking up the child.

7. Making any false or disparaging social media posts, statements, websites, blogs, newspapers or radio regarding V.T.D. or any pending litigation.

8. Restoring any information regarding V.T.D. or this litigation on any social media outlet, website, blog, newspaper, radio, or YouTube, including but not limited to videos, audios and pictures, that was placed online before September 1, 2015.

Petitioner and Respondent waive issuance and service of the writ of injunction, by stipulation or as evidenced by the signatures below. IT IS ORDERED that Petitioner and Respondent shall be deemed to be duly served with the writ of injunction.

Required Information

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

Name:	V.T.D.
Social Security number:	xxx-xx-x[redacted]
Driver's license number and issuing state:	xxxxx[redacted], Texas
Current residence address:	[redacted], Dallas, Texas 75230
Mailing address:	[redacted], Dallas, Texas 75230
Home telephone number:	214-XXX-XXXX
Name of employer:	Talley Dunn Gallery
Address of employment:	5020 Tracy Street, Dallas, Texas 75205
Work telephone number:	214-XXX-XXXX

Name:	B.B.M.
Social Security number:	xxx-xx-x[redacted]
Driver's license number and issuing state:	xxxxx[redacted], Texas
Current residence address:	[redacted], Dallas, TX 75229
Mailing address:	[redacted], Dallas, TX 75229
Home telephone number:	214-XXX-XXXX
Name of employer:	Self-Employed
Address of employment:	[redacted], Dallas, TX 75229
Work telephone number:	214-XXX-XXXX

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 600 Commerce Street, Suite 340, Dallas, Texas 75202. 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

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.

Attorney's Fees

IT IS ORDERED that good cause exists to award VIRGINIA TALLEY DUNN judgment

in the amount of Twenty Five Thousand dollars ($25,000.00) for reasonable attorney's fees, expenses, and costs incurred by V.T.D., with interest at five percent (5%) per year compounded annually from the date the judgment is signed until paid. The judgment, for which let execution issue, is awarded against BRADLEY BRIGGLE MILLER, Respondent. VIRGINIA TALLEY DUNN may enforce this judgment for fees, expenses, and costs in her own name by any means available for the enforcement of a judgment for debt.

IT IS FURTHER ORDERED that VIRGINIA TALLEY DUNN is awarded a judgment of Fifteen Thousand dollars ($15,000.00) against BRADLEY BRIGGLE MILLER for attorney's fees on appeal for the benefit of her attorney. The judgment shall bear interest at five percent (5%) per year compounded annually from the date of judgment, for which let execution issue. IT IS ORDERED that BRADLEY BRIGGLE MILLER shall post an appellate bond in the amount of $15,000.00 before pursuing any appeal of this order.

IT IS FURTHER ORDERED that the judgment of attorney's fees on appeal rendered against BRADLEY BRIGGLE MILLER is conditioned on his pursuit of an ultimately unsuccessful appeal.

Costs

IT IS ORDERED that Petitioner, VIRGINIA TALLEY DUNN, is awarded a judgment of Five Hundred Seventeen and 33/100 dollars ($517.33) against Respondent, BRADLEY BRIGGLE MILLER, for costs of court incurred in this case, with interest at five percent (5%) per year compounded annually from the date the judgment is signed until paid, for which let execution issue.

Relief Not Granted

IT IS ORDERED that all relief requested in this case and not expressly granted is denied. All other terms of the prior orders not specifically modified in this order shall remain in full force and effect.

Date of Order

SIGNED on NOVEMBER 17, 2016.

JUDGE PRESIDING

H

Miller's Objection to Entry of Proposed Order
(in 2015 Modification Suit)

(Case # DF-13-02616)

(2016/11/15)

APPENDIX
H

NO. DF-13-02616-Y

IN THE INTEREST	§	IN THE DISTRICT COURT
OF V.I.P.M.,	§	330th JUDICIAL COURT
A CHILD	§	DALLAS COUNTY, TEXAS

RESPONDENT'S OBJECTION TO ENTRY OF PROPOSED "ORDER IN SUIT TO MODIFY PARENT-CHILD RELATIONSHIP"

Respondent, BRADLEY B. MILLER (hereafter "MILLER"), files his objection to Petitioner's proposed "ORDER IN SUIT TO MODIFY PARENT-CHILD RELATIONSHIP," and in support shows the following:

1. *Modification suit was filed without grounds, thus any subsequent orders are void.*

Petitioner VIRGINIA TALLEY DUNN (hereafter "DUNN") filed her "Petition to Modify Parent-Child Relationship" without citing grounds. Modification requires "Materially and substantially changed" circumstances. TEX. FAM. CODE § 156.101 (a) (1). Petitioner DUNN states in her petition that Respondent MILLER's circumstances have changed, yet she did not state in her pleadings, nor in court testimony, what these "changed circumstances" are. No grounds for modification have ever been pleaded, much less demonstrated or proven in this case.

Thus Petitioner DUNN's suit is frivolous and constitutes "bad faith" under TEX. R. CIV. P. 13. Any order imposed supporting a groundless suit, and one that fails to meet the requirements of TEX. FAM. CODE § 156.101 (a) (1), is legally unwarranted and thus void on its face.

2. *Unconstitutional Order.*

Petitioner DUNN has drafted a proposed Order. (Attached as Exhibit "A"). The order contains the following provision, which follows the Court's ruling:

> "IT IS ORDERED that B.B.M. is removed as managing conservator and that V.T.D. is appointed Sole Managing Conservator and B.B.M. is appointed Possessory Conservator of the following child: V.I.P.M." (Exhibit A at 2).

This ruling and order is unconstitutional. U.S. CONST. Amd. 14. The United Supreme Court has held that the "primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition." *Wisconsin v. Yoder*, 406 U.S. 205 at 232 (1972) (citing *Pierce v. Society of Sisters*, 268 U.S. 510 (1925) and *Meyer v. Nebraska*, 262 U.S. 390 (1923)). *Meyer* confirmed that the Fourteenth Amendment protects the right of parents to bring up their child. *Meyer*, 262 U.S. 390 at 403. *Troxel v. Granville* has more recently agreed:

> "...it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." (*Troxel v. Granville*, 530 U.S. 57 at 66 (2000)).

Respondent MILLER has not been accused or convicted of any crime, yet the Court—without grounds or explanation—has stripped him of his constitutional right to parent his own child, specifically with regard to the ability to make medical and educational decisions for his daughter, and also by limiting his time with his child to four days in a typical month.

3. *The ruling and Order are not in the "best interest of the child."*

The Texas Family Code stipulates that a modification is allowed if it "would be in the best interest of the child." TEX. FAM. CODE § 156.101 (a). The Court has seen evidence that Petitioner DUNN has displayed behavior consistent with severe mental illness, including suicidal ideation and pathological lying. Assigning the role of Sole Managing Conservator to Petitioner DUNN is therefore obviously counter to the "best interest of the child." Assigning the sole right to make decisions involving invasive medical procedures and psychiatric care to Petitioner DUNN is, on the contrary, likely to result in harm to the child.

4. *Unconstitutional Injunctions.*

Petitioner DUNN has submitted a proposed Order. (Attached as Exhibit "A"). This Order stipulates eight permanent injunctions, as follows (Exhibit "A" at 6):

> "IT IS ORDERED that BRADLEY BRIGGLE MILLER is permanently enjoined from:
>
> 1. Withdrawing the child from enrollment at The Hockaday School.
>
> 2. Making disparaging remarks, whether oral or written, regarding V.T.D. in the presence or within the hearing of the child or any third party.
>
> 3. Communicating directly with V.T.D. or the child in a threatening or harassing manner.
>
> 4. Communicating any threat through any person to V.T.D. or the child.
>
> 5. Engaging in conduct directed specifically toward V.T.D. or the child, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass V.T.D. or the child.
>
> 6. Going to or near the residence or place of employment or place of business of V.T.D., and IT IS ORDERED that B.B.M. is prohibited from going near 7147 Azalea Lane, Dallas, Texas 75230 and Talley Dunn Gallery, 5020 Tracy Street, Dallas, Texas, and B.B.M. shall maintain a distance of 1,000 feet therefrom. IT IS FURTHER ORDERED that the only exception to this prohibition is that B.B.M. may go to V.T.D.'s residence for

the sole purpose of picking up the child at the beginning of his period of possession, and B.B.M. IS ORDERED to remain in the car while picking up the child.

7. Making any false or disparaging social media posts, statements, websites, blogs, newspapers or radio regarding V.T.D. or any pending litigation.

8. Restoring any information regarding V.T.D. or this litigation on any social media outlet, website, blog, newspaper, radio, or YouTube, including but not limited to videos, audios and pictures, that was placed online before September 1, 2015."

These injunctions, individually and severally, violate constitutional guarantees regarding free speech, due process, and equal treatment, as described below:

a) Injunction § 1 violates the constitutional right of parents to make decisions regarding the upbringing of their child. U.S. CONST. Amd. 14. *Meyer* at 403; *Troxel* at 66.

b) Injunction § 2 violates the constitutional right to free speech. U.S. CONST. Amd. I; TEX. CONST. Art. I, § 8. This injunction places prior restraints on Respondent MILLER's speech that have been repeatedly disallowed by The Supreme Court of Texas. *Davenport v. Garcia*, 834 S.W.2d 4, 9 (Tex. 1992); *Kinney v. Barnes*, 443 S.W.3d 87, 90 (Tex. 2014), cert. denied, 2015 WL 231998 (U.S. Jan. 20, 2015). Such prior restraints are not allowed even in Family Court cases. *Grigsby v. Coker*, 904 S.W.2d 619 (Tex. 1995).

c) Injunction § 3 violates the constitutional right to due process with regard to vagueness. U.S. CONST., Amd. 14; TEX. CONST. Art. I, § 13. Injunctions must be "specific." TEX. R. CIV. P. 683. This injunction lacks specificity and is thus unconstitutional.

d) Injunction § 4 violates the constitutional right to due process. U.S. CONST., Amd. 14; TEX. CONST. Art. I, § 13. Respondent MILLER has not been found criminally liable

for making threats; nor does the Court's ruling, nor these orders, find that he has made threats in the past. Thus the imposition of this injunction is prejudicial, shows evidence of judicial bias, and thus violates Respondent MILLER's right to due process. Further, this injunction violates MILLER's right to free speech. U.S. CONST. Amd. I; TEX. CONST. Art. I, § 8. Prior restraint on speech is not allowed; the only allowable legal remedy is after the fact.

e) Injunction § 5 violates the constitutional right to due process with regard to vagueness. U.S. CONST., Amd. 14; TEX. CONST. Art. I, § 13. Injunctions must be "specific." TEX. R. CIV. P. 683. "Conduct that annoys some people does not annoy others," and vague ordinances are a due process violation. *Coates v. Cincinnati*, 402 U.S. 611, 614 (1971). The word "'embarrass' is fatally vague," and 'annoy' is "unconstitutionally vague." *Commission for Lawyer Discipline v. Benton*, 980 S.W.2d 425 at 440 (Tex. 1998) (citing *Coates* at 611). This injunction does not state the specific behavior that would result in an infraction, thus it is unconstitutional and void on its face.

f) Injunction § 6 violates the constitutional right to free speech. U.S. CONST. Amd. I; TEX. CONST. Art. I, § 8. The Supreme Court of Texas has ruled that injunctions imposing distance restrictions on movement near a building are unconstitutional. *Ex Parte Tucci*, 859 S.W.2d 1, 8 (Tex. 1993); TEX. CONST. Art. I, § 8.

g) Injunction § 7 violates the constitutional right to free speech. U.S. CONST. Amd. I; TEX. CONST. Art. I, § 8. Prior restraint on speech is not allowed. *Davenport v. Garcia*; *Grigsby v. Coker*; *Kinney v. Barnes*.

h) Injunction § 8 violates the constitutional right to free speech. U.S. CONST. Amd. I; TEX. CONST. Art. I, § 8. Prior restraint on speech is not allowed. *Davenport v. Garcia*; *Grigsby v. Coker*; *Kinney v. Barnes*.

i) All of the proposed injunctions violate the constitutional right to equal treatment under the law. U.S. CONST. Amd. 14; TEX. CONST. Art. I, Sec. 3. The injunctions are unilateral and apply only to Respondent MILLER. Petitioner DUNN is not bound by any of the proposed injunctions. The proposed injunctions thus show clear evidence of judicial bias.

5. *Respondent MILLER objects to the form of the proposed Order.*

a) Injunctions § 7 and § 8 are unintelligible in their language. (Exhibit "A" at 6.)

b) Waiver (Exhibit "A" at 6): Respondent MILLER does not agree to the waiver of issuance and service of the writ of injunction. Respondent asserts that the injunctions are unconstitutional and are an abuse of judicial discretion; and he wishes that a written record be made of the imposition of any such injunction in the form of a formal writ, and that the writ be served upon any designated party.

6. *Respondent MILLER objects to the levying of attorney's fees against him.*

The proposed Order, following the Court's ruling, states in relevant part:

> "IT IS ORDERED that good cause exists to award VIRGINIA TALLEY DUNN judgment in the amount of Twenty Five Thousand dollars ($25,000.00) for reasonable attorney's fees, expenses, and costs incurred by V.T.D., with interest at five percent (5%) per year compounded annually from the date the judgment is signed until paid." (EXHIBIT "A" at 8-9).

This order is a blatant violation of Respondent MILLER's due process rights. U.S. CONST., Amd. 14; TEX. CONST. Art. I, § 13. Petitioner DUNN filed this modification suit without grounds, forcing Respondent MILLER to defend himself against her frivolous and legal action

for the past year and a half. Neither Petitioner DUNN nor the Court has cited any action of MILLER's which could have justified DUNN's lawsuit in the first place, nor which would justify the awarding of attorney's fees to Petitioner DUNN. Thus this Order is a clear abuse of judicial discretion and is designed solely to restrict Petitioner MILLER's due process right to defend himself in a court of law, as well as to injure and oppress the exercise of his constitutional right to free speech. The Court's ruling and proposed Order are acts of judicial retaliation both for Respondent MILLER's defense of his constitutional rights, and for filing a complaint with the Texas State Commission on Judicial Conduct against the District Judge of this court.

7. *Respondent MILLER objects to the imposition of an appellate bond.*

The proposed Order, following the Court's ruling, states in relevant part:

> "IT IS FURTHER ORDERED that VIRGINIA TALLEY DUNN is awarded a judgment of Fifteen Thousand dollars ($15,000.00) against BRADLEY BRIGGLE MILLER for attorney's fees on appeal for the benefit of her attorney. The judgment shall bear interest at five percent (5%) per year compounded annually from the date of judgment, for which let execution issue. IT IS ORDERED that BRADLEY BRIGGLE MILLER shall post an appellate bond in the amount of $15,000.00 before pursuing any appeal of this order." (Exhibit "A" at 9).

This appellate bond order is another blatant violation of Respondent MILLER's due process rights. U.S. CONST., Amd. 14; TEX. CONST. Art. I, § 13. Because Respondent MILLER is indigent, the imposition of such a high appellate bond requirement poses an insurmountable obstacle to appeal. It is designed solely to preclude Respondent MILLER's ability to defend his rights via appeal to a higher court. This order, too, is an outrageous act of judicial retaliation both for Respondent MILLER's defense of his constitutional rights in this modification case, and for filing a complaint with the Texas State Commission on Judicial Conduct against the District Judge of this court.

8. *Petitioner's proposed Order does not follow the Court's ruling.*

Petitioner's proposed Order includes findings and orders which were not in District Judge Plumlee's October 18, 2016 ruling from the bench.

9. Signing the proposed Order violates Title 18, U.S. Code §§ 241 and 242 and is a crime.

Under Title 18, U.S. Code § 241, conspiring to injure or oppress any citizen in the enjoyment of any constitutionally guaranteed right is a felony, with a penalty of up to 10 years in prison. Likewise, under Title 18, U.S. Code § 242, depriving any citizen of a constitutionally guaranteed right under color of law is also a federal crime. Signing the proposed Order, which has been prepared by Petitioner DUNN and submitted to the Court, and which codifies the injury of Petitioner MILLER's constitutional rights, would therefore constitute a crime under federal law.

10. Criminal prosecution warning.

Petitioner MILLER will seek federal criminal prosecution under Title 18, U.S. Code §§ 241 and 242 of any judge, attorney, officer of the court, party, or individual who participates in the injury of his constitutional rights by the signing of Petitioner DUNN's proposed Order.

11. Request for Fees, Expenses, and Costs.

It was necessary for B.B.M., acting pro se, to prepare and prosecute this Objection. Petitioner DUNN should be ordered to pay all related fees, expenses, and costs, including but not limited to lost wages, which should be paid directly to Respondent MILLER.

12. Pleading in the Alternative.

Pleading in the alternative, but without waiving the foregoing objections, Respondent submits his proposed "Order in Suit to Modify" (attached as Exhibit "B"), which comports with the laws and Constitutions of the State of Texas and the United States of America.

13. Prayer

Respondent MILLER prays the following:

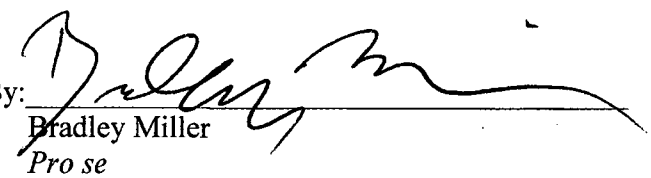
1. That the Court refuse to sign Petitioner DUNN's proposed "Order in Suit to Modify".

2. That the Court sign Respondent MILLER's proposed "Order in Suit to Modify".

3. That the Court grant Respondent MILLER any and all further relief in law or in equity to which he may be justly entitled.

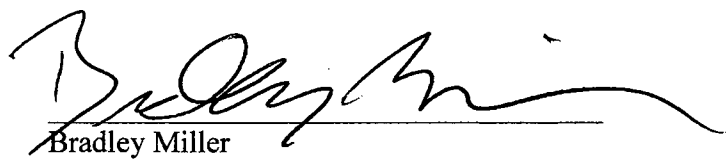
Respectfully submitted,

Bradley Miller, pro se
3355 Whitehall Dr.
Dallas, Texas 75229
Tel: (214) 923-9165

By: 
Bradley Miller
Pro se

Certificate of Service

I certify that true and correct copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on November 15, 2016.



Bradley Miller
Pro se

Exhibit "A"

Petitioner's Proposed ORDER IN SUIT TO MODIFY
PARENT-CHILD RELATIONSHIP

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. DF-13-02616-Y

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
V.I.P.M,	§	330TH JUDICIAL DISTRICT
	§	
A CHILD	§	DALLAS COUNTY, TEXAS

ORDER IN SUIT TO MODIFY PARENT-CHILD RELATIONSHIP

On October 18, 2016, the Court heard this case.

Appearances:

Petitioner, VIRGINIA TALLEY DUNN ("V.T.D."), appeared in person and through attorneys of record Patricia Linehan Rochelle and David H. Findley and announced ready for trial.

Respondent, BRADLEY BRIGGLE MILLER ("B.B.M."), appeared in person and announced ready for trial.

Jurisdiction

The Court, after examining the record and the evidence and argument of counsel, finds that it has jurisdiction of this case and of all the parties and that no other court has continuing, exclusive jurisdiction of this case. All persons entitled to citation were properly cited.

Jury

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

Record

The record of testimony was duly reported by the court reporter for the 330th Judicial District Court.

Child

The Court finds that the following child is the subject of this suit:

Name:	VIRGINIA ISABEL PAINE MILLER ("V.I.P.M.")
Sex:	Female
Birth date:	July 11, 2007
Home state:	Texas

Findings

The Court finds that the material allegations in the petition to modify are true and that the requested modification is in the best interest of the child. IT IS ORDERED that the requested modification is GRANTED.

Parenting Plan

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

Conservatorship

The Court finds that the following orders are in the best interest of the child.

IT IS ORDERED that B.B.M. is removed as managing conservator and that V.T.D. is appointed Sole Managing Conservator and B.B.M. is appointed Possessory Conservator of the following child: V.I.P.M.

IT IS ORDERED that, at all times, V.T.D., as a parent sole managing conservator, and B.B.M., as a parent possessory conservator, shall each have the following rights:

1. the right to receive information from any other conservator of the child concerning the health, education, and welfare of the child;

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 child;

3. the right of access to medical, dental, psychological, and educational records of the child;

4. the right to consult with a physician, dentist, or psychologist of the child;

5. the right to consult with school officials concerning the child's welfare and educational status, including school activities;

6. the right to attend school activities;

7. the right to be designated on the child'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 child; and

9. the right to manage the estate of the child to the extent the estate has been created by the parent or the parent's family.

IT IS ORDERED that, at all times, V.T.D., as a parent sole managing conservator, and B.B.M, as a parent possessory conservator, shall each have the following duties:

1. the duty to inform the other conservator of the child in a timely manner of significant information concerning the health, education, and welfare of the child;

2. the duty to inform the other conservator of the child 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 Texas 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 notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the fortieth day after the date the conservator of the child 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;

3. the duty to inform the other conservator of the child if the conservator establishes a residence with a person who the conservator knows is the subject of a final protective order sought by an individual other than the conservator that is in effect on the date the residence with the person is established. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the thirtieth day after the date the conservator establishes residence with the person who is the subject of the final protective order. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE;

4. the duty to inform the other conservator of the child if the conservator resides with, or allows unsupervised access to a child by, a person who is the subject of a final protective order sought by the conservator after the expiration of the sixty-day period following the date the final protective order is issued. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the ninetieth day after the date the final protective order was issued. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE; and

5. the duty to inform the other conservator of the child if the conservator is the subject of a final protective order issued after the date of the order establishing conservatorship. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the thirtieth day after the date the final protective order was issued. 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, V.T.D., as a parent

sole managing conservator, and B.B.M., as a parent possessory conservator, shall each have the following rights and duties:

1. the duty of care, control, protection, and reasonable discipline of the child;

2. the duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure;

3. the right to consent for the child to medical and dental care not involving an invasive procedure; and

4. the right to direct the moral and religious training of the child.

IT IS ORDERED that V.T.D., as parent sole managing conservator, shall have the following exclusive rights and duty:

1. the right to designate the primary residence of the child;

2. the right to consent to medical, dental, and surgical treatment involving invasive procedures;

3. the right to consent to psychiatric and psychological treatment of the child;

4. the right to receive and give receipt for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child;

5. the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;

6. the right to consent to marriage and to enlistment in the armed forces of the United States;

7. the right to make decisions concerning the child's education;

8. except as provided by section 264.0111 of the Texas Family Code, the right to the services and earnings of the child;

9. except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, the right to act as an agent of the child in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government; and

10. the duty to manage the estate of the child to the extent the estate has been created by community property or the joint property of the parents.

Child's Passport

IT IS ORDERED that V.T.D. is authorized to apply for the renewal of the child's passport without B.B.M.'s consent. IT IS FURTHER ORDERED that V.T.D. has the exclusive

authority to renew the child's passport.

Once the child's passport is renewed, IT IS ORDERED that V.T.D. shall have the exclusive right to maintain possession of any passport of the child.

Modification of Possession and Access

IT IS ORDERED that the Standard Possession Order contained in the *Agreed Final Decree of Divorce* dated April 2, 2014 is modified as follows:

1. Extended Summer Possession by B.B.M.—

With Written Notice by April 15—If B.B.M. give V.T.D. written notice by April 15 of a year specifying an extended periods of summer possession for that year, B.B.M. shall have possession of the child for 28 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 two separate periods of 14 consecutive days each, separated by 14 days, 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 15—If B.B.M. does not give V.T.D. written notice by April 15 of a year specifying an extended period or periods of summer possession for that year, B.B.M. shall have possession for 28 days in that year with the first period of possession beginning at 6:00 p.m. on Sunday of the last full week in June (week defined as Sunday through Saturday) and ending at 6:00 p.m. 14 days later, and the second period of possession beginning at 6:00 p.m. on the third Sunday in July and ending at 6:00 p.m. 14 days later.

2. General Terms and Conditions

Surrender of Child by V.T.D. – V.T.D. is ORDERED to surrender the child to B.B.M. at the beginning of each period of B.B.M.'s possession at the residence of V.T.D. B.B.M. is ORDERED to remain in the car while picking up the child from V.T.D.'s residence. IT IS ORDERED that, if B.B.M. (or competent adult designated by B.B.M.) fails to appear at V.T.D.'s residence to pick up the child within 15 minutes of the beginning of his period of possession, that period of possession is waived by B.B.M.

Surrender of Child by B.B.M. – B.B.M. is ORDERED to surrender the child to V.T.D. at the residence of B.B.M. at the end of each period of possession. IT IS ORDERED that, if V.T.D. (or competent adult designated by V.T.D.) fails to appear at B.B.M.'s residence to pick up the child within 15 minutes of the beginning of her period of possession, that period of possession is waived by V.T.D.

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

The provisions of this order relating to conservatorship, possession, or access terminate

on the remarriage of B.B.M. to V.T.D. unless a nonparent or agency has been appointed conservator of the child under chapter 153 of the Texas Family Code.

Injunctive Relief

The Court finds that, because of the conduct of B.B.M., a permanent injunction against him should be granted as appropriate relief because there is no adequate remedy at law.

The permanent injunction granted below shall be effective immediately and shall be binding on B.B.M.; on his agents, servants, employees, and attorneys; and on those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise.

IT IS ORDERED that BRADLEY BRIGGLE MILLER is permanently enjoined from:

1. Withdrawing the child from enrollment at The Hockaday School.

2. Making disparaging remarks, whether oral or written, regarding V.T.D. in the presence or within the hearing of the child or any third party.

3. Communicating directly with V.T.D. or the child in a threatening or harassing manner.

4. Communicating any threat through any person to V.T.D. or the child.

5. Engaging in conduct directed specifically toward V.T.D. or the child, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass V.T.D. or the child.

6. Going to or near the residence or place of employment or place of business of V.T.D., and IT IS ORDERED that B.B.M. is prohibited from going near 7147 Azalea Lane, Dallas, Texas 75230 and Talley Dunn Gallery, 5020 Tracy Street, Dallas, Texas, and B.B.M. shall maintain a distance of 1,000 feet therefrom. IT IS FURTHER ORDERED that the only exception to this prohibition is that B.B.M. may go to V.T.D.'s residence for the sole purpose of picking up the child at the beginning of his period of possession, and B.B.M. IS ORDERED to remain in the car while picking up the child.

7. Making any false or disparaging social media posts, statements, websites, blogs, newspapers or radio regarding V.T.D. or any pending litigation.

8. Restoring any information regarding V.T.D. or this litigation on any social media outlet, website, blog, newspaper, radio, or YouTube, including but not limited to videos, audios and pictures, that was placed online before September 1, 2015.

Petitioner and Respondent waive issuance and service of the writ of injunction, by stipulation or as evidenced by the signatures below. IT IS ORDERED that Petitioner and Respondent shall be deemed to be duly served with the writ of injunction.

Required Information

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

Name:	V.T.D.
Social Security number:	xxx-xx-x132
Driver's license number and issuing state:	xxxxx203, Texas
Current residence address:	7147 Azalea Lane, Dallas, Texas 75230
Mailing address:	7147 Azalea Lane, Dallas, Texas 75230
Home telephone number:	214-XXX-XXXX
Name of employer:	Talley Dunn Gallery
Address of employment:	5020 Tracy Street, Dallas, Texas 75205
Work telephone number:	214-XXX-XXXX

Name:	B.B.M.
Social Security number:	xxx-xx-x096
Driver's license number and issuing state:	xxxxx192, Texas
Current residence address:	3355 Whitehall, Dallas, TX 75229
Mailing address:	3355 Whitehall, Dallas, TX 75229
Home telephone number:	214-XXX-XXXX
Name of employer:	Self-Employed
Address of employment:	3355 Whitehall, Dallas, TX 75229
Work telephone number:	214-XXX-XXXX

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 600 Commerce Street, Suite 340, Dallas, Texas 75202. 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

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.

Attorney's Fees

IT IS ORDERED that good cause exists to award VIRGINIA TALLEY DUNN judgment

in the amount of Twenty Five Thousand dollars ($25,000.00) for reasonable attorney's fees, expenses, and costs incurred by V.T.D., with interest at five percent (5%) per year compounded annually from the date the judgment is signed until paid. The judgment, for which let execution issue, is awarded against BRADLEY BRIGGLE MILLER, Respondent. VIRGINIA TALLEY DUNN may enforce this judgment for fees, expenses, and costs in her own name by any means available for the enforcement of a judgment for debt.

IT IS FURTHER ORDERED that VIRGINIA TALLEY DUNN is awarded a judgment of Fifteen Thousand dollars ($15,000.00) against BRADLEY BRIGGLE MILLER for attorney's fees on appeal for the benefit of her attorney. The judgment shall bear interest at five percent (5%) per year compounded annually from the date of judgment, for which let execution issue. IT IS ORDERED that BRADLEY BRIGGLE MILLER shall post an appellate bond in the amount of $15,000.00 before pursuing any appeal of this order.

IT IS FURTHER ORDERED that the judgment of attorney's fees on appeal rendered against BRADLEY BRIGGLE MILLER is conditioned on his pursuit of an ultimately unsuccessful appeal.

Costs

IT IS ORDERED that Petitioner, VIRGINIA TALLEY DUNN, is awarded a judgment of Five Hundred Seventeen and 33/100 dollars ($517.33) against Respondent, BRADLEY BRIGGLE MILLER, for costs of court incurred in this case, with interest at five percent (5%) per year compounded annually from the date the judgment is signed until paid, for which let execution issue.

Relief Not Granted

IT IS ORDERED that all relief requested in this case and not expressly granted is denied. All other terms of the prior orders not specifically modified in this order shall remain in full force and effect.

Date of Order

SIGNED on _____.

_____
JUDGE PRESIDING

APPROVED AS TO FORM ONLY:

Patricia Linehan Rochelle
State Bar No. 13732050
David H. Findley
State Bar No. 24040901
Rochelle Findley Barbee PLLC
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dfindley@rochellelegal.com
Attorneys for V.T.D.

B.B.M., Respondent *pro se*

Exhibit "B"

Respondent's Proposed ORDER IN SUIT TO MODIFY
PARENT-CHILD RELATIONSHIP

NO. DF-13-02616-Y

IN THE INTEREST	§	IN THE DISTRICT COURT
OF V.I.P.M.,	§	330th JUDICIAL COURT
A CHILD	§	DALLAS COUNTY, TEXAS

ORDER IN SUIT TO MODIFY PARENT-CHILD RELATIONSHIP

On October 18, 2016, the Court heard this case.

Appearances:

Petitioner, VIRGINIA TALLEY DUNN ("V.T.D."), appeared in person and through attorneys of record Patricia Linehan Rochelle and David H. Findley and announced ready for trial.

Respondent, BRADLEY BRIGGLE MILLER ("B.B.M."), appeared in person and announced ready for trial.

Jurisdiction

The Court, after examining the record and the evidence and argument of counsel, finds that it has jurisdiction of this case and of all the parties and that no other court has continuing, exclusive jurisdiction of this case. All persons entitled to citation were properly cited.

Jury

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

Record

The record of testimony was duly reported by the court reporter for the 330th Judicial District Court.

Child

The Court finds that the following child is the subject of this suit:

Name:	VIRGINIA ISABEL PAINE MILLER ("V.I.P.M.")
Sex:	Female
Birth date:	July 11, 2007
Home state:	Texas

Findings

The Court finds that Petitioner's material allegations in the petition to modify are false and that her requested modification is not in the best interest of the child. IT IS ORDERED that Petitioner's requested modification is DENIED.

The Court finds that Respondent's material allegations in the counter-petition to modify are true and that his requested modification is in the best interest of the child. IT IS ORDERED that Respondent's requested modification is GRANTED.

Parenting Plan

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

Conservatorship

The Court finds that the following orders are in the best interest of the child.

IT IS ORDERED that B.B.M. and V.T.D. remain as parent joint managing conservators of the following child: V.I.P.M.

IT IS ORDERED that, at all times, V.T.D. and B.B.M., as parent joint managing conservators, shall each have the following rights:

1. the right to receive information from any other conservator of the child concerning the health, education, and welfare of the child;

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 child;

3. the right of access to medical, dental, psychological, and educational records of the child;

4. the right to consult with a physician, dentist, or psychologist of the child;

5. the right to consult with school officials concerning the child's welfare and educational status, including school activities;

6. the right to attend school activities;

7. the right to be designated on the child'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 child; and

9. the right to manage the estate of the child to the extent the estate has been created by the parent or the parent's family.

IT IS ORDERED that, at all times, V.T.D. and B.B.M, as parent joint managing conservators, shall each have the following duties:

1. the duty to inform the other conservator of the child in a timely manner of significant information concerning the health, education, and welfare of the child;

2. the duty to inform the other conservator of the child 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 Texas 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 notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the fortieth day after the date the conservator of the child 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;

3. the duty to inform the other conservator of the child if the conservator establishes a residence with a person who the conservator knows is the subject of a final protective order sought by an individual other than the conservator that is in effect on the date the residence with the person is established. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the thirtieth day after the date the conservator establishes residence with the person who is the subject of the final protective order. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE;

4. the duty to inform the other conservator of the child if the conservator resides with, or allows unsupervised access to a child by, a person who is the subject of a final protective order sought by the conservator after the expiration of the sixty-day period following the date the final protective order is issued. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the ninetieth day after the date the final protective order was issued. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE; and

5. the duty to inform the other conservator of the child if the conservator is the subject of a final protective order issued after the date of the order establishing conservatorship. IT IS ORDERED that notice of this information shall be provided to the other conservator of the child as soon as practicable, but not later than the thirtieth day after the date the final protective order was issued. 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, V.T.D. and B.B.M., 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 child;

2. the duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure;

3. the right to consent for the child to medical and dental care not involving an invasive procedure; and

4. the right to direct the moral and religious training of the child.

IT IS ORDERED that B.B.M., as parent joint managing conservator, shall have the following exclusive rights and duty:

1. the right to designate the primary residence of the child;

2. the right to consent to medical, dental, and surgical treatment involving invasive procedures;

3. the right to consent to psychiatric and psychological treatment of the child;

4. the right to receive and give receipt for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child;

5. the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;

6. the right to consent to marriage and to enlistment in the armed forces of the United States;

7. the right to make decisions concerning the child's education;

8. except as provided by section 264.0111 of the Texas Family Code, the right to the services and earnings of the child;

9. except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, the right to act as an agent of the child in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government; and

10. the duty to manage the estate of the child to the extent the estate has been created by community property or the joint property of the parents.

Modification of Possession and Access

IT IS ORDERED that the Standard Possession Order contained in the *Agreed Final Decree of Divorce* dated April 2, 2014 is modified as follows:

1. General Terms and Conditions

Possession of Child by V.T.D. – V.T.D. is ORDERED to take possession of the child on even weeks of the month, starting at 6:00 p.m. on even Fridays of the month, and ending at 6:00 p.m. on the following Friday.

Possession of Child by B.B.M. – B.B.M. is to take possession of the child on odd weeks of the month, starting at 6:00 p.m. on even Fridays of the month, and ending at 6:00 p.m. on the following Friday.

Summer Possession by B.B.M. – B.B.M. is to have possession of the Child from July 1-14 and again from July 28 – August 11. The stipulations in the *Agreed Decree of Divorce* regarding the Child's birthday shall remain in effect.

Right of First Refusal – In the event that either parent is not available to care for the child during the period of possession, either V.T.D. or B.B.M. must offer the other parent the opportunity to take temporary possession of the Child. The period in question must be at least 3 hours in duration, unless both parents agree to periods of shorter duration.

Phone calls to Child – During the other parent's period of possession, the possessory parent must make the Child available by telephone for at least 5 minutes per night, between the hours of 8:00 and 9:00 p.m.

Child Support – V.T.D shall pay child support to B.B.M. in the amount of $_____ per month.

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

The provisions of this order relating to conservatorship, possession, or access terminate on the remarriage of B.B.M. to V.T.D. unless a nonparent or agency has been appointed conservator of the child under chapter 153 of the Texas Family Code.

Injunctive Relief

The Court finds that no permanent injunctions should be granted against either party. The injunctions in the Temporary Orders shall lapse upon the signing of this Order.

Required Information

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

Name:	V.T.D.
Social Security number:	xxx-xx-x132
Driver's license number and issuing state:	xxxxx203, Texas
Current residence address:	7147 Azalea Lane, Dallas, Texas 75230
Mailing address:	7147 Azalea Lane, Dallas, Texas 75230
Home telephone number:	214-XXX-XXXX
Name of employer:	Talley Dunn Gallery
Address of employment:	5020 Tracy Street, Dallas, Texas 75205
Work telephone number:	214-XXX-XXXX

Name:	B.B.M.
Social Security number:	xxx-xx-x096
Driver's license number and issuing state:	xxxxx192, Texas
Current residence address:	3355 Whitehall, Dallas, TX 75229
Mailing address:	3355 Whitehall, Dallas, TX 75229
Home telephone number:	214-XXX-XXXX
Name of employer:	Self-Employed
Address of employment:	3355 Whitehall, Dallas, TX 75229
Work telephone number:	214-XXX-XXXX

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 600 Commerce Street, Suite 340, Dallas, Texas 75202. 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

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.

Attorney's Fees

IT IS ORDERED that good cause exists to award BRADLEY BRIGGLE MILLER judgment in the amount of One Hundred Fifty Thousand dollars ($150,000.00) for reasonable attorney's fees, expenses, and costs incurred by B.B.M., with interest at five percent (5%) per year compounded annually from the date the judgment is signed until paid. The judgment, for which let execution issue, is awarded against VIRGINIA TALLEY DUNN, Respondent. BRADLEY BRIGGLE MILLER may enforce this judgment for fees, expenses, and costs in his own name by any means available for the enforcement of a judgment for debt.

Relief Not Granted

IT IS ORDERED that all relief requested in this case and not expressly granted is denied. All other terms of the prior orders not specifically modified in this order shall remain in full force and effect.

Date of Order

SIGNED on_____.

_____
JUDGE PRESIDING

APPROVED AS TO FORM ONLY:

_____
Patricia Linehan Rochelle
State Bar No. 13732050
David H. Findley
State Bar No. 24040901
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B.B.M., Respondent *pro se*

I

Miller's Motion to Dismiss or Change Venue
(with Affidavit on Local Bias and Prejudice)

(Case # DF-13-02616)

(2018/02/19)

APPENDIX
I

NO. DF-13-02616-Y

FILED
2018 FEB 19 AM 8:34
FELICIA PITRE
DISTRICT CLERK
DALLAS CO. TEXAS
DEPUTY

IN THE INTEREST	§	IN THE DISTRICT COURT
OF V.I.P.M.,	§	330th JUDICIAL COURT
A CHILD	§	DALLAS COUNTY, TEXAS

Respondent's Motion to Dismiss, or in the Alternatives, Motion for Change of Venue, or Motion to Set Evidentiary Hearing on Local Bias

Comes now Bradley B. Miller, *pro se*, and in support of these alternative motions to the Court, also noticing the Clerk, counsel and all parties of the same, hereby provides the following:

SUMMARY POINT

1. Because there has been no valid jurisdiction over these matters in Dallas County for quite some time, for multiple serious reasons thereof, any further proceedings between the instant two primary parties over such matters, if any there may yet be, shall be in another venue.

CURRENT BACKGROUND AND STATUS

2. The parties were previously married and cohabitated from December 2004 until February of 2013, when the prior divorce action was filed. Said divorce action was finalized in April 2014.

3. Petitioner Virginia Talley Dunn, by counsel Patricia Rochelle, and other attorneys, pursued various further litigation after that finalization.

4. As this Court, the Clerk and clerks, parties and counsel, and a number of other interested local persons are fully aware of, these matters, and upon certain alleged torts plus constitutional challenges to Texas statutory schemes raised as well, were all next removed to federal court, and

although it eventually issued a grossly erred remand order, removal under special Section 1443, unlike all several types of general "normal" removal which are not so privileged, is expressly fortified with the Congress-mandated direct right of federal appellate review, due to the sheer inherent and self-evident importance of providing assured forums for constitutional challenges. An appeal remains pending in The Supreme Court of the United States in case number 17-6836.

5. It is well known by the Court that the undersigned has filed several prior complaints regarding alleged bias and prejudice against the currently presiding Judge Andrea Plumlee.

INCORPORATION OF OTHER PAPERS INTO THESE ALTERNATIVE MOTIONS

6. The undersigned now further incorporates the same as if they had been fully set forth herein (H.I.), each and every paper entered within my lower federal removal case, TX-ND case number 3:16-CV-3213, and each and every paper within my corresponding federal full appellate case, 5th Circuit case number 16-11817, and the currently pending U.S. Supreme Court case number 17-6836 (and prior 16-9012), the point being to raise the following serious issues herein:

a) All judges of Dallas County are precluded from any further involvement herein due to the express statutory conflicts of interest of the Title IV-D system;

b) Independently, the several matters of local bias and prejudice complained of require, without reasonable question, transfer of venue to another county themselves.

ALL JUDGES OF DALLAS COUNTY ARE DISQUALIFIED FROM THIS MATTER

7. Next, and independently, as regards any origination of child support orders in the first place, and as further regards any enforcement of child support orders originated within this same Dallas County, Texas, every judge and court of this same County is absolutely precluded by law from doing either of the same, since no judge may hear or address any matters in which the same judge has either a direct or indirect pecuniary interest, and that includes having a business and/or

other working relationship with any beneficiary to any such pecuniary interests, i.e., not only Dallas County itself, but the judges and attorneys of this County, as its court officers.

8. In 1975, the federal government determined that the best way to help women and children move from public assistance to self-sufficiency was to help them collect child support from the fathers. To ensure that states followed through with this idea, a state's receipt of welfare funding (under Title IV-A of the Social Security Act) was tied to its creation and operation of a child support enforcement program (under Title IV-D of the Social Security Act; hence the name "IV-D".) [S. REP. NO. 1356, 93d Cong., 2nd Sess. (1974)]; Until 1985, this responsibility was shared by district and county attorneys and the Texas Department of Public Welfare. In 1985, the function was transferred to the Office of the Attorney General (OAG); Nationwide, the child support program is governed almost exclusively by federal regulations. Title IV-D, 42 U.S.C. §651, et seq., spells out in great detail the standards state programs must meet to qualify for funding; The Texas OAG has contracted with counties to provide IV-D services for all divorce cases in the county, usually handled through the local domestic relations office. The district judges in those counties have enacted a local rule declaring that all divorce decrees entered after a certain date will be treated as IV-D cases. The parties may opt out of this referral, see TFC § 231.0011(c). The parties herein did **not** opt out.

9. TFC § 231.101, et seq., authorizes counties to enter into various agreements regarding Title IV-D services, and under a complicated formula, establishes various portions of the Title IV-D financial collections stream to be paid out in various percentages to the given county itself, the clerk of the county, the prosecutor of the county, and the judges of the county, whether by direct apportionment into their own salaries, budgets and/or otherwise. See also, enacted S.B. No. 1139, for various details and figures thereupon.

10. As such, the judge of this Court has a direct pecuniary interest as to the collection ("enforcement") of its own child support orders issued against me, and the same goes for every judge of this County likewise, hence the Rules preclude any judge in Dallas County from - at least - presiding over these child support matters, if not also completely from this case.

11. To disqualify a judge, typically the said interest should be direct and pecuniary. "[T]he interest which disqualifies a judge is that interest, however small, which rests upon a direct pecuniary or personal interest ***in the result of the case*** presented to the judge or court." *Cameron v. Greenhill*, 582 SW2d 775, 776 (Tex. 1979). (emphasis added)

12. In *Nalle v. City of Austin*, 22 SW 668 (Tex. 1893), the Supreme Court determined that the district judge who presided over the suit was indeed disqualified because he lived in and paid taxes to the City of Austin. The suit was brought by a property owner to enjoin collection of taxes and to cancel $900,000 in bonds already issued. The injunction effectively prevented the tax levy. The Supreme Court said every property holder not only has an interest but a direct pecuniary interest in the result. By living and paying taxes in Austin, the judge was disqualified.

13. A judge who is a stockholder in a corporation is disqualified from hearing a case in which that corporation is a party – *Pahl v. Whitt*, 304 SW2d 250 (Tex. App. – El Paso 1957, no writ history).

14. The employment of the judge's wife by the defendant corporation was a direct pecuniary interest amounting to disqualification – *Gulf Maritime Warehouse v. Towers*, 858 SW2d 556 (Tex. App. – Beaumont 1993, denied).

15. A trial judge's entry in the lawsuit by filing an answer and seeking attorney fees against the party filing a recusal motion created a direct pecuniary interest sufficient to disqualify – *Blanchard v. Krueger*, 916 SW2d 15 (Tex. App. – Houston [1st Dist.] 1995, no writ history).

16. A trial judge whose pay was tied to the conviction rate in a drug impact court had a pecuniary interest and was disqualified – *Sanchez v. State*, 926 SW2d 391 (Tex. App. – El Paso 1996, Ref.).

17. Because the judge of this Court is a judge of Dallas County and the pending matters at hand also include attempted enforcement of an alleged child support arrearage matter within a Dallas County case interplexed with their own Title IV-D financial interests, the judges of Dallas County are *precluded by law* from hearing Ms. Dunn's enforcement action(s).

MOTION TO DISMISS FOR LACK OF JURISDICTION

18. Amongst the various serious state and federal constitutional issues raised and pending by the above, is the self-evident and incontrovertible fact that state governments simply may not deprive, impinge, remove or otherwise harm or interfere with any natural parent's superior and preclusive constitutional rights to the custody of their direct blood offspring (minor children); Indeed, state government has no lawful constitutional basis or authority to even begin to merely question the child custody of any natural parent – including the fully equal child custody of V.I.P.M. shared with Ms. Dunn – without even so much as ever first alleging, let alone actually first proving as constitutionally required under clear and convincing evidence and all due process elements thereunder – that either and/or both given natural parent(s) are found, after such full due process is first provided, to be too seriously unfit to *retain* their custody rights.

19. For either myself and/or Ms. Dunn to have properly invoked the power of the courts of Dallas County (or of any Texas state court, for that matter...) to get involved regarding custody rights over a minor child, one of us and/or some governmental unit charged with such matters would have had to allege some form of serious parental unfitness of either and/or both of us; Ms. Dunn has never once alleged any serious parental unfitness of myself herein, and has likewise

never legitimately alleged—much less proven—any serious parental unfitness of me in any other filings, ever. (However, there are various and credible issues also well documented herein of Ms. Dunn's many troubles, including repeated episodes of custody interference.)

20. Hence, **no court has ever had any proper subject matter jurisdiction over the instant parties and their instant minor child herein**, because the established constitutional prerequisite in existence of some actual serious parental unfitness issues (*serious* child abuse and/or *serious* child neglect) (reminding again that all such alleged issues alleging basis for state jurisdiction over attempts to separate the direct blood relationships between a natural parent and his/her child must be quite serious issues proven under higher due process hurdles, indeed) were never even once raised at any time whatsoever during either the original nor subsequent proceedings herein.

21. There are no magical differences of any kind between Ms. Dunn and her own *direct blood relationship* to V.I.P.M. (with attendant child custodial rights), versus myself and my own *direct blood relationship* to V.I.P.M., versus any natural parent facing or having faced an action to terminate his/her parental rights for child abuse/neglect (DFPS-CPS petitions), versus any other natural parent out there and their own *direct blood relationship(s)* to their own one (1) or more children. In each and every case, before the State of Texas can even begin to question, let alone either remove, modify or otherwise alter or interfere with, the *direct blood relationship* between said natural parents and corresponding children, the State of Texas must *always first* prove – and that *only* by clear and convincing evidence – some form of very serious unfitness.

22. To be sure, the civil courts of Texas have proper subject matter jurisdiction over people that choose to divorce, in order to process a peaceful, lawful separation of parties and involved assets and debts, as well as compelling execution of necessary instruments to effect those goals, because that is a civil court process constitutionally allowed between **non-blood** relationships.

23. However, just because two separate non-blood parental parties divorce and/or otherwise legally separate, that does not provide any Texas civil court with subject matter jurisdiction over the parent-child relationships of either such same natural parent, *without first finding unfitness*.

24. Without either any original valid subject matter jurisdiction, nor any valid and proper subsequent subject matter jurisdiction, over *either* of the two (2) instant parties herein regarding either and/or both of their respective, individual parental rights to the natural child herein, that is V.I.P.M., this Court should therefore DISMISS this case for lack and want of valid jurisdiction.

25. Moreover, outright dismissal will not prejudice either of the parties, as detailed below.

ALTERNATIVE MOTION FOR CHANGE OF VENUE ON LOCAL BIAS AND PREJUDICE

26. Undersigned realleges all paragraphs *supra* together with all incorporations of papers.

27. Upon alternative motion for this Court to consider instead, the undersigned then moves for change of venue based upon inordinate and established bias and prejudice of local judges.

28. Upon such motion, this Court, if in any doubt of granting, must then next and first set an evidentiary hearing upon the alleged local bias and prejudice, for not less than forty-five (45) days next hence, to provide minimal period of time in which the parties may engage in all forms of discovery regarding such allegations of bias and prejudice within the instant courts and/or other aspects of this County, such as constitutionally-compliant jury pools for one example.

29. The minimum period of 45 days towards the corresponding evidentiary hearing on bias is, again, very well established, e.g., *City of La Grange v. McBee*, 923 S.W.2d 89 (1996), and etc.

30. Naturally, there are even additional aspects and issues that the undersigned may, can and might bring to bear in further support of such a motion, if and as needed.

FEDERAL PROHIBITION OF GARNISHMENT UNDER 15 U.S.C. § 1673

31. Under 15 U.S.C. § 1673, no court may issue or enforce any garnishment order that exceeds 50 percent of a person's disposable income. 15 U.S.C. § 1673 (b)(2)(A). Miller has been granted leave to proceed *in forma pauperis* in a currently pending case (17-6836) in The Supreme Court of the United States. His stated income in that federal case is currently $8,928 per year. His dramatically reduced income is entirely due to Dunn's continuing lawsuits against him, the malfeasance of this court in allowing frivolous suits to proceed against him, and the massive time burdens that those illicit actions have placed upon him—including defending himself in appeals in The Supreme Court of the United States (case numbers 16-9012 and 17-6836), and the related cases in the federal District Court for the Northern District of Texas (3:16-CV-3213), the federal Fifth circuit Court of Appeals (16-11817), and the Supreme Court of Texas (16-0487), as well as in related cases in state civil and appellate courts. Miller is currently under unconstitutional orders limiting his right to free speech and his right to parent his own child—imposed by this court—and he cannot allow those grossly illegal strictures to remain in place. Miller has no disposable income at this time; and his financial situation is unlikely to change as long as Dunn's abusive and fraudulent "legal" actions continue—and continue to be abetted by this and other courts. Under 15 U.S.C. § 1673(c), this court is prohibited from enforcing any garnishment action against Miller, or any "order or process in violation of this section," including any finding of contempt for non-payment of child support.

CONCLUSION

32. There are indeed a variety of serious constitutional issues regarding lack of jurisdiction herein, not only presently, if any, but clearly even that of the original action processed herein.

33. Accordingly, without constitutionally-compliant jurisdiction basis under which to ever even begin questioning the child custody of either party, the Court should now dismiss in total.

34. Dismissal of this case will not prejudice the parties, as either may renew a properly valid cause of action within another court.

35. Alternatively, if this Court doesn't want to grant either of those two motions, then a full evidentiary hearing – with full discovery rights attendant to such hearing allowed without limit – must be set for no less than 45 days next, so that the allegations of bias and prejudice may be fully exposed and proven and heard on the record, in order to sustain that third motion for relief.

WHEREFORE, the undersigned Father, *pro se*, now notifies the Court, the Clerk, and all parties and counsel of the variety of issues as aforementioned, and accordingly moves the Court for any corresponding relief in those alternatives, and for all true relief proper in these premises.

Respectfully submitted,

Bradley Miller
Pro se
5701 Trail Meadow Dr.
Dallas, Texas 75230
Tel: (214) 923-9165

CERTIFICATE OF SERVICE

I certify that true and correct copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on February 19, 2018.

Bradley Miller
Pro se
5701 Trail Meadow Dr.
Dallas, Texas 75230
Tel: (214) 923-9165

NO. DF-13-02616-Y

IN THE INTEREST	§	IN THE DISTRICT COURT
OF V.I.P.M.,	§	330th JUDICIAL COURT
A CHILD	§	DALLAS COUNTY, TEXAS

Affidavit of Bradley Miller on Local Bias and Prejudice

I, the undersigned affiant in this matter, Bradley B. Miller, hereby affirm under the penalties for perjury the truth of the matters set forth herein below to the best of my personal knowledge:

1. I have been a party to the above encaptioned Dallas County court case, along with direct predecessors from judge transfers, since the original filings by Petitioner Dunn in 2013.

2. From the beginning in 2013, it has often appeared that I have been unfairly discriminated against and violated by these state court judges in said cases, and unfairly discriminated against and violated by opposing counsel, simply because of my male gender, regardless of representing myself *pro se* or when I employ multiple paid attorneys, hence there is also class discrimination.

3. Petitioner Virginia Talley Dunn and I conceived a child born in December of 2007, V.I.P.M. In February of 2013, Dunn had initiated the original of this case, a divorce action including determinations of custody, support and visitation "allotments" to each of us parents. (Dunn began the case by making allegations of Domestic Violence—which were entirely unsubstantiated and never supported by any evidence whatsoever; however, Dunn's false allegations resulted in a five-month supervision requirement for me to see my own daughter, until that stipulation was eventually overturned by this court.)

4. I am the natural and biological parent of V.I.P.M., the same as Petitioner Dunn, and my full legal custody rights, in equal share with Petitioner Dunn, were established at and by the moment of the birth of V.I.P.M., not randomly later by some judicial court process on paper.

5. However, to the direct contrary, ever since this original case was filed in February 2013, the Petitioner has unconstitutionally and also fraudulently deprived both myself and V.I.P.M. from our entitled enjoyment of each other's rights of mutual and familial association, and of our well established liberty rights, in multiple times and ways, whether Petitioner had unilaterally acted via her own affirmative violations of law and rights and decency, or whether she had acted in unethical concert with others, including opposing attorneys and the judges of Dallas County, with never-ending fictitious state court processes in continuing to extort my monies, energies, and time, not only needlessly to pay my own lawyer (while I could briefly afford one at the outset), but also in ordering me to pay opposing counsel.

6. While Petitioner Dunn's false damages were achieved in effecting several *de facto* terminations of my parent-child relationship, none with valid cause, and while the Dallas County courts and judges have *still* done absolutely nothing to ever prevent Petitioner Dunn from unilaterally depriving my parenting rights, let alone properly sanctioning her, and while all the above allegations are demonstrated proven by the various filings and exhibits not only in this case, but in the related appeals, the real question is: Why does all this extreme bias and prejudice even exist, in the first place?

7. After the initial divorce case was concluded in 2014, a Family Court gag order expired, and I began to contact members of my community to inform them of the fraud and abuse I had experienced in the court. This exposure did not reflect well upon Dunn, for obvious reasons. In response, Dunn sued me in state civil court (case number DC-15-01598), ostensibly for "tortious

interference" in her business, but fundamentally to request another gag order to keep me from saying anything about her abusive and criminal acts. Initial hearings were held before Judge Gena Slaughter in the 191st Civil District Court. In one of those hearings, Slaughter disclosed that she was a good friend of attorney Lisa Blue Baron, who had previously employed and known a woman named Beth Taylor—who was also a longtime friend of and employee of Dunn's. Slaughter, however, did not recuse herself.

8. When the day came for the order-entry hearing in that civil case, Judge Slaughter was suddenly absent. In her place appeared Judge Ted Akin, a retired Dallas Court of Appeals Justice. Judge Akin failed to disclose two major conflicts: 1) Akin's daughters attended the Hockaday School—where Plaintiff Talley Dunn was a recent Board Chair—at the same time that Dunn was a student, and 2) that, since 1955, he has been a member of Brook Hollow Golf Club, where Dunn's grandfather was also a member, and where Dunn spent much of her childhood. Akin and Dunn's grandfather, Charles J. Paine, certainly knew each other, and Akin certainly knew or was otherwise familiar with Dunn as a contemporary and schoolmate of his own daughters. His sudden appearance in Dunn's civil suit is thus highly suspicious at best, and more likely the result of a criminal conspiracy between Dunn, Slaughter, and Akin. (I previously documented these conflicts in an affidavit filed in the Texas Supreme Court in case number 16-0487, and in the Supreme Court of the United States in case number 16-9012.)

9. It should be noted that Ted Akin lost a lawsuit in 1983 after he was found liable for having his father-in-law, architect George Dahl, fraudulently committed to a psychiatric institution in order to gain control of Dahl's fortune. So Akin is no stranger to criminal acts.

10. After Akin signed Temporary Injunctions in Dunn's civil suit which imposed another gag order, I appealed the injunctions to the state Court of Appeals. The gag order was eventually

overturned (while other absurd rulings remained); but in the meantime, Dunn filed the current custody modification suit against me in the 330th Family Court. This suit was filed without any stated grounds, and Dunn requested—and was granted—another even more restrictive gag order against me. This gag order forbade me from talking to anyone at the Hockaday School about the suit, or about Dunn. Some time later, I was notified that Dunn's suit was personally instigated by Dallas Family law attorney Maryann Mihalopoulos. Mihalopoulos immediately succeeded Dunn as Board Chair of the Hockaday School, and the two had worked closely together on the Hockaday Executive Committee for several years. I had contacted the Hockaday Board in 2014 to notify them that Dunn had filed for divorce, and that she had made false Domestic Violence accusations against me, in order to move our daughter to the Hockaday School immediately, rather than in a few years. Dunn was the Hockaday Board chair when the divorce was filed; and obviously, Dunn's actions reflected poorly upon the school. The Hockaday School and Mihalopoulos therefore had an interest in preventing this information from being expressed, even if it meant committing a federal crime to keep me from speaking up.

11. As has been described before in the aforementioned affidavit, Judge Andrea Plumlee of the 330th Family Court granted Dunn's requested gag order against me. This case proceeded through trial, upon which Plumlee made this unconstitutional order permanent in her oral ruling from the bench. I then removed the case to federal court under Title 28, U.S. Code Section 1443, citing numerous civil rights violations. On November 17, 2016, I filed my federal removal case just before the final order-entry hearing in the Family Court case, freezing any further state-court action. I then served removal Respondent Virginia Dunn's attorney, Patricia Rochelle, before she entered the courtroom for that hearing, telling her that the case had been removed from state court. Rochelle sarcastically replied, "I'll tell Judge Plumlee you think you have removed the

case"; she then walked into Judge Plumlee's courtroom. That same evening, Rochelle's legal assistant emailed me a copy of the order—which the state court judge, Andrea Plumlee, had signed, though she had no jurisdiction.

12. The case was then reviewed by the district court for the Northern District of Texas, and Judge Sam Lindsay remanded the case to state court on the very next day. The incredible haste of this decision indicates that Judge Lindsay made no attempt whatsoever to examine the (voluminous) state court case filings, and it also suggests that Judge Andrea Plumlee may have called him and asked him to deny the appeal immediately—since she had just signed an illegal order. Judges Plumlee and Lindsay work just a few blocks from each other in downtown Dallas, and are thus part of the same Bar community. So It is certainly not out of the realm of possibility—and indeed probable, considering other evidence of ex parte communications involving Plumlee in the state court case—that Plumlee contacted Judge Lindsay and asked him to remand the case back to state court as quickly as possible.

13. The removal case then proceeded through the federal Fifth Circuit Court of Appeals, a process that took most of a year. I wrote and prepared the briefs for this case. Eventually, the Fifth Circuit denied the appeal on the absurd grounds that civil rights removals are limited to complaints of racial discrimination, and remanded the case, ending the appeal by right. I then appealed that decision to the United States Supreme Court (in pending case number 17-6836), but the underlying Family Court case apparently then became active again.

14. Afterward, Plumlee apparently issued a warrant for my arrest on contempt for missing a child support hearing. I was never even notified of any such hearing, or of any related court documents. But Dunn must have filed something. And neither Dunn, her lawyer, or the 330th Family Court ever notified me of this hearing (if it actually took place), so the warrant was

obtained by fraudulent means—and which resulted in my unlawful incarceration in the Dallas County Jail.

15. I discovered the existence of this warrant on February 15, 2018 when I went to pick up my daughter for an extended weekend possession. I arrived at approximately 6:10 p.m.; and Dunn refused to bring out my daughter and put her in my car. (Another of Plumlee's injunctions forbids me from leaving my car at Dunn's house.) My daughter came out to speak with me, but would not get in the car, presumably because Dunn had dissuaded her from doing so. After waiting around 80 minutes, and telling Dunn via text message that I was going to do so, I called the police to document a custody interference complaint under Texas Penal Code § 25.03. When the police arrived, they refused to enforce the custody order; but the officers did inform me that I had a warrant for my arrest in connection with a child support hearing in the 330th Family District Court that I had allegedly missed. This was all news to me, as I had heard nothing about a hearing. The police officers then arrested me and took me to the Lew Sterrett jail, where I remained imprisoned until approximately 7:45 p.m. on Friday, February 16. I was then released on a $1,500 bond with the assistance of attorney and family friend James Alderson. As a result of this arrest, my car was also towed, which incurred a cost to me of $262.60, plus my time. This episode was very emotionally distressing to me, to say the least. And my daughter had to see police officers take me away in handcuffs. And I did not get to spend the four-day weekend with my daughter—Dunn did not respond to texts to bring my daughter over to me, and she did not answer the door when my sister went to pick her up at 6:00 p.m. on Friday night. Dunn also will not answer the phone when I call my daughter.

16. However, this incident is typical of the abuse that Dunn subjects me to on a regular basis. She frequently violates the court's custody orders. (As an example, Dunn came to my house on

February 4, 2018, while I was in the bathroom, and removed my daughter from my residence without my knowledge or permission. Dunn then texted me that she had taken our daughter to a Girl Scout cookie sale, where I was about to drop her off.) The court—meaning Judge Andrea Plumlee—does nothing about these violations, and indeed assists Dunn in her abusive actions. As a result, I rarely see my daughter for any length of time. (I only have custody for four days in a typical month, under the court order.)

17. This situation is a clear violation of my constitutional right to parent, and it has been extremely harmful to my daughter. Dunn fits the classic profile of a Narcissistic Parental Alienator. They see children as pawns to be manipulated and used as leverage in a control game. The children suffer severe psychological damage as a result, and they are typically cut off from the family of the other parent—as in my case. Dunn has trained my daughter to be dismissive of and rude to my parents, and has deliberately eroded my own relationship with my daughter.

18. Taken as a whole, the actions of these Dallas judges (and attorneys)—many involving fraud—demonstrate a clear bias against me. After six years of constant court activity, it is obvious that I will never achieve justice in a Dallas County courtroom, and that I will indeed never even receive a fair hearing here. Dunn has enjoyed clear favoritism granted to her by the Dallas County courts, and prejudicial animosity displayed toward me, whether due to personal connections or to gender bias. This is precisely why both I and my daughter have been continually and repeatedly violated in our mutual rights to each other, and why Petitioner Virginia Talley Dunn is continually and repeatedly just allowed to do whatever she wants, regardless of those being violations of not only law but also of previous relevant orders *by the same courts*. As a result, the Dallas courts continuously extort lucrative payments of otherwise

unnecessary and endless attorney fees—for both sides—and consume years of all of our lives, and make it impossible to foresee any remote chance of ever obtaining basic justice.

19. Upon significant information and belief, including not only regarding the above matters of serious concern, but also of even further and related matters therewith, I am fully convinced that it is impossible for me to obtain any fair hearings or trials in the Dallas County courts, and that it is also impossible for me to obtain any fair or reasonable justice via the same courts, because of manifest bias and prejudice already demonstrating lack of fair and impartial tribunals, an absolute refusal to obey any and all legal authorities, and a general atmosphere of corruption, that it will also be and is utterly impossible for me to ever have even a remotely fair jury trial of any kind in the Dallas County courts, and that other citizens may be likewise suffering wrongly.

20. I fully believe and hereby expressly state and claim that I have been grievously violated in both law and rights numerous times by Petitioner Dunn, her various counsel, the courts and judges of Dallas County, the County of Dallas, and other related parties, that I have suffered pain and anguish due to these same civil and criminal violations against both myself and my daughter, and that I am entitled therefore to full-fledged remedies of the problems complained of, and further that I am also entitled to just and reasonable forms and amounts of compensation from these liable and guilty parties, and to a trial by jury, and to any and all other form(s) of prospective and declaratory relief applicable in the premises.

21. Affiant sayeth further naught.

Bradley B. Miller

SIGNED under oath before me on February 19, 2018.

SABASTIAN STEPHON APPLEWHITE
Notary Public, State of Texas
Comm. Expires 10-06-2019
Notary ID 13039631-0

Notary Public, State of Texas

J

Miller's Motion to Recuse Trial Court District Judge Andrea Plumlee

(Case # DF-13-02616)

(2018/02/19)

APPENDIX
J

NO. DF-13-02616-Y

IN THE INTEREST	§	IN THE DISTRICT COURT
OF V.I.P.M.,	§	330th JUDICIAL COURT
A CHILD	§	DALLAS COUNTY, TEXAS

MOTION TO RECUSE

This Motion to Recuse is timely filed by B.B.M. (Bradley B. Miller), Respondent, in accordance with TEX. R. CIV. P. 18a and 18b. A contempt hearing is set for February 19, 2018 at 9:00 a.m. On February 16, 2018, Miller first became aware of a related hearing in this court.

1. An appeal of trial orders issued by District Judge Andrea Plumlee in this proceeding is currently pending in The Supreme Court of The United States in case number 17-6836. Respondent Miller also filed a previous appeal of Plumlee's temporary orders in the The Supreme Court of the United States in case number 16-9012. Both of these appeals allege that District Judge Plumlee has committed numerous criminal acts against Miller. Among these acts: On November 17, 2016, Judge Plumlee signed an order—without jurisdiction—that included a gag order and other unconstitutional injunctions against Miller, and which was signed after Miller had removed his case to federal court under 28 U.S.C. § 1443. Just two days prior, Miller had objected to all of these post-trial injunctions and warned that he would seek federal criminal prosecution of Plumlee under Title 18, U.S. Code §§ 241 and 242 if these orders were signed. (See *Respondent's Objection To Entry of Proposed "Order in Suit to Modify Parent-Child Relationship"* filed on November 15, 2016 in this case.)

2. Most recently, Plumlee issued an arrest warrant for Miller, which was obtained by fraudulent means—and which resulted in Miller's unlawful incarceration in the Dallas County Jail. Miller discovered the existence of this warrant on February 15, 2018 when he went to pick up his daughter for an extended weekend possession. Miller arrived at approximately 6:10 p.m.; Miller's ex-wife, Virginia Talley Dunn, refused to deliver the Child into Miller's court-ordered custody. After waiting 80 minutes, Miller called the police to document a custody interference complaint under Texas Penal Code § 25.03. When the police arrived, they refused to enforce the custody order, but the officers did inform Miller that he had a warrant for his arrest in connection with a child support hearing in the 330th Family District Court that he had allegedly missed. The police officers then arrested Miller and delivered him to the Lew Sterrett jail, where he remained imprisoned until approximately 7:45 p.m. on February 16, when he was released on a $1,500 bond with the help of attorney James Alderson (Texas State Bar No. 00980000). As a result of this arrest, Miller's car was also towed, which incurred a cost to Miller of $262.60, plus his time.

3. Respondent Miller was:

- **Never** served with a notice of any impending child support court hearing;
- **Never** notified by either Dunn or her counsel of any impeding hearing;
- **Never** served with or notified by Dunn or her counsel of any related pleadings;
- **Never** notified by the Court of any impending hearing; and was
- Therefore completely unaware that a hearing took place, or of any related pleadings.

Miller **still** does not know when the purported hearing took place, and he has not seen the pleading(s) that prompted it. This failure to serve Miller—a pro se litigant—with court documents is a violation of TEX. R. CIV. P. 106 and an obvious and egregious violation of his

Fourteenth Amendment right to Due Process. His eventual jailing as a result of this failure also represents an egregious violation of his rights under the Fifth Amendment. (Miller was also never sent a copy of the arrest warrant, nor made aware of its existence until he was arrested.) Such conduct is inexcusable in a court of law, and it clearly violates Canons 1 and 3 of the Texas Code of Judicial Conduct. It represents professional incompetence of the worst order.

4. Previously, Respondent Miller filed a complaint with the State Commission on Judicial Conduct against 330th Family Court District Judge Andrea Plumlee on September 27, 2016 (CJC No. 17-0094-DI). Respondent Miller also filed a complaint with the SCJC against 330th Family Court Associate Judge Danielle Diaz on September 29, 2016. Miller filed another SJCJ complaint against Judge Plumlee on June 19, 2017 (CJC No. 17-0087-DI). All of these complaints catalog repeated, habitual, and intentional abuses of judicial discretion—including violations of Texas and Federal law—committed by both Judge Plumlee and Judge Diaz.

5. Judge Plumlee has made statements from the bench that indicate her clear bias against Respondent Miller. (Some of these are enumerated in Miller's 2016 Texas Supreme Court mandamus petition, which should be accessed and retrieved at this web address: http://www.search.txcourts.gov/Case.aspx?cn=16-0487 .) On July 23, 2015, after calling Respondent Miller and his ex-wife, Virginia Talley Dunn, to the bench, Judge Plumlee said:

> "Let me say, I would normally attempt to talk to the parties for a moment, but it doesn't seem in this case that anyone wants to listen; at least Mr. Miller does not wish to." (See mandamus Tab PPP at 4:2-5.)

On January 17, 2014, after Respondent Miller had testified that he had a First Amendment right to free speech, Judge Plumlee said to him:

> "When you're up there talking, I don't understand what you're saying. It's like Charlie Brown—whah whah whah whah whah." (See mandamus Tab A at 22).

On July 23, 2015, Judge Plumlee interrupted respondent Miller several times as he tried to raise objections to the Court. (See mandamus Tab A at 54).

Judge Plumlee's behavior on the bench constitutes a violation of Canons 2.A and 3.B of the Texas Code of Judicial Conduct.

6. Judge Plumlee has made numerous errant and constitutionally indefensible rulings, all of which have been against Respondent Miller's interests. On February 4, 2014, over Respondent Miller's objections, Plumlee signed and Order enjoining "disparaging remarks"—a clear violation of Miller's First Amendment rights. (See mandamus Tab H). On August 11, 2015, Judge Plumlee signed Temporary Orders which further restricted Respondent Miller's constitutional right to free speech. (See mandamus Tab SSS). Dunn had no such restrictions.

On July 23, 2015, Judge Plumlee quashed several subpoenas issued by Respondent Miller—but only those which summoned witnesses who were represented by attorneys. (See mandamus at 12; mandamus Tab A at 54-55). This action constituted a violation of Respondent Miller's Fourteenth Amendment right to Due Process.

On September 17, 2015, Judge Plumlee affirmed Associate Judge Diaz's ruling, which required Respondent Miller to remove comments he had made about Petitioner Talley Dunn on the Internet—another violation of Miller's First Amendment rights. (See mandamus Tab XXX).

In addition, the current case in the 330th Family Court—a custody modification—was filed without grounds, in violation of TEX. FAM. CODE § 156.101 (a) (1). (See mandamus Tab L, M.) However, Judge Plumlee allowed the case to proceed; thus, this frivolous suit has now been in process for almost three years, consuming most of Miller's time during that period.

Taken together, Judge Plumlee's actions and rulings indicate a clear bias against Respondent Miller. Judge Plumlee has repeatedly granted unconstitutional relief requested by

Petitioner Dunn and her attorneys. She has thus violated not only Canons 2.A and 3.B of the Texas Judicial Code of Conduct, but also her oath of office as set forth in Article 16, § 1(a) of the Texas Constitution. Judge Plumlee's behavior also qualifies as felony criminal conduct under Title 18, U.S. Code § 241—Conspiracy Against Rights. (See mandamus at 21-22).

7. Witness testimony indicates that Judge Plumlee has possibly engaged in ex parte communications with Petitioner Virginia Talley Dunn and her attorneys. (See mandamus Tab B at 6). After a hearing on June 12, 2015, in the Associate Judge's courtroom, Mr. Miller's brother overheard Dunn asking her attorneys, Patricia Rochelle and David Findley, "Should we take this to Plumlee?"; they replied, 'No, it should be all right.' (*Id.*). Associate Judge Diaz had just granted Dunn's unconstitutional relief *in toto*, so Dunn would have had no legally defensible reason to contact District Judge Plumlee. (See mandamus Tab A at 47-49; Tab P).

8. Judge Plumlee has demonstrated both clear bias and a marked professional incompetence. A judge who has shown such a complete disregard for the law—up to and including the provisions of the Constitution—should not be hearing this case. And as Respondent Miller has now twice brought these complaints to the attention of the highest court in the country, Judge Plumlee's bias is likely to increase in its severity.

9. Respondent Miller thus asserts TEX. R. CIV. P. Rule 18b.(b)1 and 18b.(b)2 as grounds for recusal. Rule 18b.(b)1 states, in relevant part, "A judge must recuse in any proceeding in which the judge's impartiality might reasonably be questioned." Rule 18b.(b)2 states, in relevant part, "A judge must recuse in any proceeding in which the judge has a personal bias or prejudice concerning the subject matter or a party."

10. Under part 18b.(b)1, a party need not prove actual bias or what was in the mind of the trial judge. (See *Gaal v. State*, 332 S.W.3d 448 (Tex. Crim. App. 2011); *Litkey v. United States*, 510 U.S. 540, 555 (1994)).

11. Under part 18b.(b)2, recusal is proper where the trial court's rulings, remarks, or actions, reveal "such a high degree of favoritism or antagonism as to make fair judgment impossible." (See *State v. Gaal* at footnote 22 (citing *Litkey* at 563-4)). Judge Plumlee's favoritism toward Petitioner Dunn and her antagonism toward Respondent Miller are manifest in both her remarks and her rulings, and also in her non-official actions (i.e. her signing of the unconstitutional post-trial order without jurisdiction on November 17, 2016).

12. This Motion is also brought under the Fourteenth Amendment (Due Process clause) to the United States Constitution, and Article I, § 13 of the Texas Constitution (Due Course of Law).

13. It was necessary for Respondent MILLER, acting pro se, to prepare and prosecute this motion. Petitioner DUNN should be ordered to pay all related fees, expenses, and costs, including lost wages, which should be paid directly to Respondent MILLER, as well as the cost of attorney James R. Alderson's time, which should be paid directly to James R. Alderson.

Prayer

Respondent prays that this Court rule in favor of the Motion; and that the judge of this Court recuse herself from this case, and reassign this case to another qualified judge; and for all other relief both at law and in equity.

Respondent also prays that the trial judge respond to this Motion within three business days, as required by TEX. R. CIV. P. 18a.(f)(1).

Respectfully submitted,

Bradley Miller, pro se
5701 Trail Meadow Dr.
Dallas, Texas 75230
Tel: (214) 923-9165

By: _____
Bradley Miller
Pro se

Certificate of Service

I certify that true and correct copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on February 19, 2018.

Bradley Miller
Pro se

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, the undersigned notary, on this day personally appeared Bradley B. Miller, a person whose identity is known to me. After I administered an oath to him, upon his oath he said the following:

"My name is Bradley B. Miller. I am over twenty-one (21) years of age, of sound mind, and am capable of making this Motion. The facts stated in this Motion to Recuse are within my personal knowledge and are true and correct. I am a Party Pro Se, and I prepared this Motion to Recuse. All of the documents attached hereto as exhibits are true and correct copies of the documents identified or true and correct copies of the documents filed in this action, as those documents exist in my files.

Signed this 19th day of February, 2018.

Bradley B. Miller, Affiant

SUBSCRIBED AND SWORN TO before me, the undersigned authority, on this 19th day of February, 2018.

Notary Public in and for the State of Texas

SABASTIAN STEPHON APPLEWHITE
Notary Public, State of Texas
Comm. Expires 10-06-2019
Notary ID 13039631-0

My commission expires: 10/6/2019

K

Dunn's First Amended Petition to Modify the Parent-Child Relationship
(in 2018 Custody Modification Suit)

(Case # DF-13-02616)

(2018/03/18)

APPENDIX
K

I-Ct Atty

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

FILED

2018 MAR -8 PM 2:23

FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS

Cause No. DF-13-02616-Y

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
V.I.P.M,	§	330th JUDICIAL DISTRICT
	§	
A CHILD	§	DALLAS COUNTY, TEXAS

First Amended Petition to Modify the Parent-Child Relationship

1. *Discovery Level*

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

2. *Objection to Assignment of Case to Associate Judge*

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

3. *Parties and Orders to Be Modified*

This suit to modify a prior order is brought by VIRGINIA TALLEY DUNN ("V.T.D."), Petitioner. The last three numbers of Petitioner's driver's license number are ___. The last three numbers of Petitioner's Social Security number are ___. Petitioner is the mother of the child and has standing to bring this suit. The requested modification will be in the best interest of the child.

Respondent is BRADLEY BRIGGLE MILLER ("B.B.M.").

The orders to be modified are entitled *Agreed Final Decree of Divorce* that was rendered on April 2, 2014 and *Order in Suit to Modify Parent Child Relationship* that was rendered on October 18, 2016.

4. *Jurisdiction*

This Court has continuing, exclusive jurisdiction of this suit.

5. *Child*

The following child is the subject of this suit:

Name:	[redacted] ("V.I.P.M.")
Sex:	Female
Birth date:	[redacted], 2007
County of residence:	Dallas County, Texas

6. *Parties Affected*

The following parties may be affected by this suit:

Name:	B.B.M.
Relationship:	Father of the Child

Process should be served at 5701 Trail Meadow Drive, Dallas, Texas 75230

7. *Health Insurance Information*

Health insurance is in effect for the child through Petitioner's employment.

8. *Child's Property*

There has been no change of consequence in the status of the child's property since the prior order was rendered.

9. *Modification of Possession and Access*

The orders to be modified is not based on a mediated or collaborative law settlement agreement. The circumstances of the child, a conservator, or other party affected by the order to be modified have materially and substantially changed since the date of rendition of the order to be modified.

Petitioner requests that the terms and conditions for access to or possession of the child be modified to provide as follows:

1. Respondent's periods of possession should be reduced and Respondent's possession of the child should be supervised by a supervisor chosen by Petitioner or another person or entity selected by the Court.

The requested modification is in the best interest of the child.

10. Request for Temporary Orders

Petitioner requests the Court, after notice and hearing, to make temporary orders for the safety and welfare of the child, including but not limited to the following:

1. Rendering a possession order providing that Respondent's periods of visitation be continuously supervised.

2. Ordering the preparation of a child custody evaluation regarding the circumstances and condition of the child, the parties, and the residence of B.B.M. and any other issue or question relating to the suit at the request of the Court before or during the evaluation process.

11. Request for Temporary Restraining Order and Extraordinary Relief

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

1. Exercising possession of the child without supervision.

As the basis for the extraordinary relief requested below, Petitioner would show that before the filing of this petition Respondent has engaged in the conduct stated in the affidavit attached as Exhibit A. Based on that affidavit, Petitioner requests the Court to grant the following relief:

1. Issue an order excluding Respondent from unsupervised possession of or access to the child, V.I.P.M.

12. Dallas County Standing Order

The Dallas County Standing Order is attached to this Petition as Exhibit B.

13. Request for Attorney's Fees, Expenses, Costs, and Interest

It was necessary for Petitioner to secure the services of Patricia Linehan Rochelle and David H. Findley, licensed attorneys, to preserve and protect the child's rights. Respondent should be ordered to pay reasonable attorney's fees, expenses, and costs through trial and appeal, and a judgment should be rendered in favor of this attorney and against Respondent and be ordered paid directly to Petitioner's attorney, who may enforce the judgment in the attorney's own name.

Petitioner requests postjudgment interest as allowed by law.

14. Prayer

Petitioner prays that citation and notice issue as required by law and that the Court enter its orders in accordance with the allegations contained in this petition.

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

Petitioner prays that the Court, in addition to the temporary restraining order and temporary injunction prayed for above, after notice and hearing, grant a temporary injunction enjoining Respondent, in conformity with the allegations of this petition, from the acts set forth above while this case is pending.

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

Petitioner prays for general relief.

Respectfully submitted,

Patricia Linehan Rochelle
State Bar No. 13732050
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325 N. St. Paul Street
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Dallas, Texas 75201
Tele: 214-953-0182
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Dallas, Texas 75212
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Email: dfindley@bsdslaw.com

ATTORNEYS FOR PETITIONER, V.T.D.

NO. DF-13-02616-Y

IN THE MATTER OF THE MARRIAGE OF	§ § §	IN THE DISTRICT COURT
V.T.D. AND B.B.M.	§ § § §	330TH JUDICIAL DISTRICT
AND IN THE INTEREST OF V.I.P.M, A CHILD	§ § §	DALLAS COUNTY, TEXAS

AFFIDAVIT OF VIRGINIA TALLEY DUNN IN SUPPORT OF MOTION TO SUSPEND VISITATION

STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, the undersigned authority, on this day personally appeared VIRGINIA TALLEY DUNN who stated under oath as follows:

"My name is Virginia Talley Dunn. I am above the age of eighteen years, and I am fully competent to make this Affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

"I am the Applicant in this case. I was married to BRADLEY BRIGGLE MILLER (hereafter 'Bradley'), who is the Respondent in this case. We have one child, VIRGINIA ISABEL PAINE MILLER (hereafter 'Virginia'), who is ten years old.

"On November 17, 2016, the Court entered Orders in our divorce case. Under the Orders, Bradley is supposed to pick up Virginia at my house by 6:15 p.m.

"As this past weekend was the 3rd weekend of the month and a school holiday weekend, Bradley B. Miller came to my home 6:13 p.m. to pick up Virginia Miller for his weekend possession that was to begin at 6:00 p.m. on Thursday, February 15th.

"Virginia's things were ready by the front door and her overnight bag was packed. When he texted at 6:13 p.m. that he had arrived, my daughter began crying and became visibly upset.

EXHIBIT
A

"I explained to her that the weekend was his because of the holiday break, and it begins at 6:00 p.m. on Thursday evening. She then started crying. She went out to his car to speak with him. I stayed in my home.

"After talking to him until 6:21 p.m., Virginia came back into the house sobbing. She was unconsolable, and she was shaking. She said that she could not spend the night in his bed anymore. She does not have a bed of her own or a bedroom at his parents' house. She is forced to sleep in his bed, and he sleeps on the floor next to her. She would not stop crying and she repeatedly said that she could not spend the night there anymore.

"I encouraged her to talk to him again and see if they could work something out. She went outside again and spoke with Bradley for another 10 minutes. Then she came back inside. She said she asked him if she could just have a Thursday night dinner with him and not spend the night. He refused and told her to get her overnight things and get in his car. She came back into the house crying and insisting that she could not spend the night and was afraid to go with him. She said that if he made her go with him she would run away.

"I told her that it was his weekend with her. Virginia asked again if there were any other options. Bradley threatened to call the police and have me arrested if she did not get in his car. She came running back into the house in hysterics. She was sobbing uncontrollably.

"She refused to leave the house again. Bradley texted me and demanded that I physically force Virginia out of the house and into his car. He threatened to call the police via text.

"Apparently, Bradley called the police and at 8:04 p.m. my doorbell rang and Dallas Police Officer asked to come inside my home. The officer asked if I was refusing to let Virginia out of the house. I told her that Virginia has been outside three times to speak with her father. I showed the officer Virginia's packed suitcase, and I explained the possession schedule. During our conversation with the officer, I explained that Virginia was refusing to leave with Bradley.

"During this exchange the officer asked me questions and Virginia questions. Virginia was crying and shaking; however, she was able to speak to the officer. The officer asked for the possession order. The officer determined they did not have to remove the child from my home.

"The officer then left for a few minutes and returned again for the copies of my Divorce Decree and the Order to Modify Parent-Child Relationship. In the papers, I had a ticket from an incident with the police at the grandparents' house over Bradley's recent Thanksgiving possession. The officer asked to see the ticket and asked me and Virginia what it was about.

"I explained that on the Friday before Thanksgiving and the first night of Bradley's holiday possession, Virginia called me at 10:30 p.m. to say that she had locked herself in a bathroom, and she was scared and wanted the police to come to her grandparents house. Virginia told the story to the police officer in her own words about the night she wanted the police to come.

"I explained to the officer that I called the police at my daughter's request. She had locked herself in a bathroom and was terrified. I asked the police to go to the house and check on her. She stayed locked in the bathroom until they arrived.

"After the officer asked more about that incident, she returned to her squad car and she did not come back to our house for almost two hours. Virginia was sobbing and shaking the entire time.

"Just after 10:00 p.m., the officer returned to my home and came inside to talk to us. The police officer explained that Bradley was being arrested and his car was being towed. By that time, there were two squad cars in front of my house. This entire ordeal lasted from 6:13 p.m. until after 10:30 p.m. Throughout the evening, Virginia would not leave my side, as she said she was afraid something would happen to me even though I constantly reassured her that I would be okay.

"My daughter is aware of the standard possession schedule to spend Winter Break, Spring Break, Easter Break, and every 1st, 3rd, and 5th weekend this spring with Bradley at her grandparents' home, sleeping in her father's bed, and with full-time nursing care for her 95 year old grandfather. She cannot have friends over when she is with Bradley because of the living conditions. She is overwhelmed by her situation and living conditions when she is in their house.

"I always make her available for his possession time. Nonetheless, I am extremely concerned for her safety and her well-being when she is in her grandparents home, and I have witnessed the emotional toll it has taken on her.

Further Affiant sayeth not.

Virginia Talley Dunn
Virginia Talley Dunn

SIGNED under oath before me on February 20, 2018.

CHARISSE BEAUPRE
Notary ID #131272807
My Commission Expires
September 7, 2021

Notary Public, State of Texas 2/20/18

F2017/01

DALLAS COUNTY FAMILY DISTRICT COURT
GENERAL ORDERS
(Revised January 5, 2017)

DALLAS COUNTY STANDING ORDER REGARDING CHILDREN, PETS, PROPERTY AND CONDUCT OF THE PARTIES

No party to this lawsuit has requested this order. Rather, this order is a standing order of the Dallas County District Courts that applies in every divorce suit and every suit affecting the parent-child relationship filed in Dallas County. The District Courts of Dallas County giving preference to family law matters have adopted this order because the parties, their children and the family pets should be protected and their property preserved while the lawsuit is pending before the court. Therefore, it is **ORDERED:**

1. **NO DISRUPTION OF CHILDREN.** All parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this case:

1.1 Removing the children from the State of Texas for the purpose of changing residence, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.

1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court.

1.3 Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.

1.4 Disturbing the peace of the children.

1.5 Making disparaging remarks regarding the other party in the presence or within the hearing of the children.

2. **PROTECTION OF FAMILY PETS OR COMPANION ANIMALS.** All parties are ORDERED to refrain from harming, threatening, interfering with the care, custody, or control of a pet or companion animal, possessed by a person protected by this order or by a member of the family or household of a person protected by this order.

3. **CONDUCT OF THE PARTIES DURING THE CASE.** All parties are ORDERED to refrain from doing the following acts:

3.1 Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner to communicate with the other party, whether in person or in any other manner, including by telephone or another electronic voice transmission, video chat, social media, ~~or~~ in writing, or electronic messaging, with intent to annoy or alarm the other party.

3.2 Threatening the other party in person or in any other manner, including, by telephone or another electronic voice transmission, video chat, social media, ~~or~~ in writing, or electronic messaging, to take unlawful action against any person, intending by this action to annoy or alarm the other party.

3.3 Placing one or more telephone calls or text messages, at an unreasonable hour, in an

EXHIBIT B

offensive or repetitious manner, without a legitimate purpose of communication, or anonymously with the intent to alarm or annoy the other party.

3.4 Intentionally, knowing or recklessly causing bodily injury to the other party or to a child of either party.

3.5 Threatening the other party or a child of either party with imminent bodily injury.

4. **PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.**

If this is a divorce case, both parties to the marriage are ORDERED to refrain from intentionally and knowingly doing the following acts:

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

4.2 Falsifying a writing or record including an electronic record, relating to the property of either party.

4.3 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any tangible or intellectual property of one or both of the parties, including electronically stored or recorded information.

4.4 Damaging or destroying the tangible or intellectual property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party, including electronically stored or recorded information.

4.5 Tampering with the tangible or intellectual property of one or both of the parties, including any document, electronically stored or recorded information, that represents or embodies anything of value, and causing pecuniary loss to the other party.

4.6 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real property or intellectual property, and whether separate or community, except as specifically authorized by this order.

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

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

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

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

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

4.12 Destroying, disposing of, or altering, any financial records of the parties, including canceled checks, deposit slips, and other records from a financial institution, a record of credit purchases or cash advances, a tax return, and a financial statement.

4.13 Destroying, disposing of, or altering any email, text message, video message, or chat message or social media message or other electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive in a removable storage device, in cloud storage, or in another electronic storage medium.

4.14 Modifying, changing, or altering the native format or metadata of any electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive in a removable storage device, in cloud storage, or in another electronic storage medium.
4.15 Deleting any data or content from any social network profile used or created by either party or a child of the parties.
4.16 Using any password or personal identification number to gain access to the other party's email account, bank account, social media account, or any other electronic account.
4.17 Taking any action to terminate or limit credit or charge cards in the name of the other party.
4.18 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.
4.19 Discontinuing or reducing the withholding for federal income taxes on wages or salary.
4.20 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.
4.21 Excluding the other party from the use and enjoyment of the other party's specifically identified residence.
4.22 Opening or redirecting mail, email or any other electronic communication addressed to the other party.

5. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** "Records" means any tangible document or recording and includes e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts: Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations; falsifying any writing or record relating to the property of either party.

INSURANCE IN DIVORCE CASE. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts: Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order. Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children. Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' minor children.

SPECIFIC AUTHORIZATIONS IN DIVORCE CASE. If this is a divorce case, both parties to the marriage are specifically authorized to do the following: To engage in acts reasonable and necessary to the conduct of that party's usual business and occupation; To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit; To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation and medical care; To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.

SERVICE AND APPLICATION OF THIS ORDER. The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time the petition is filed, if the

Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented. This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of the court. This entire order will terminate and will no longer be effective once the court signs a final order.

EFFECT OF OTHER COURT ORDERS. **If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail.** Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.

PARTIES ENCOURAGED TO MEDIATE. The parties are encouraged to settle their disputes amicably without court intervention. The parties are encouraged to use alternative dispute resolution methods, such as mediation or informal settlement conferences (if appropriate), to resolve the conflicts that may arise in this lawsuit.

BOND WAIVED. It is ORDERED that the requirement of a bond is waived.

THIS DALLAS COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF PARTIES SHALL BECOME EFFECTIVE ON JANUARY 1, 2017.

Hon. J. Darlene Ewing
Judge, 254th District Court

Hon. Mary Brown
Judge, 301st District Court

Hon. Kim Cooks
Judge, 255th District Court

Hon. Tena Callahan
Judge, 302nd District Court

Hon. David Lopez
Judge, 256th District Court

1-5-17

Hon. Dennise Garcia
Judge, 303rd District Court

Hon. Andrea Plumlee
Judge, 330th District Court

L

Trial Court's Temporary Orders (Signed without jurisdiction)
(in 2018 Custody Modification Suit)

(Case # DF-13-02616)

(2018/06/07)

APPENDIX
L

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. DF-13-02616-Y

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
V.I.P.M,	§	330TH JUDICIAL DISTRICT
	§	
A CHILD	§	DALLAS COUNTY, TEXAS

TEMPORARY ORDERS IN SUIT TO MODIFY PARENT-CHILD RELATIONSHIP

On June 7, 2018, the Court heard Petitioner's application for temporary orders.

Appearances

Petitioner, VIRGINIA TALLEY DUNN ("V.T.D."), appeared in person and through attorney of record, David H. Findley, and announced ready.

Respondent, BRADLEY BRIGGLE MILLER ("B.B.M."), ~~appeared in person and announced ready.~~ did not appear and was properly defaulted.

Jurisdiction

The Court, after examining the record and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that this Court has jurisdiction of this case and of all the parties.

Child

The following orders are for the safety and welfare and in the best interest of the following child:

Name: [redacted] ("V.I.P.M.")
Sex: Female
Birth date: [redacted], 2007
Home state: Texas

Supervised Visitation for B.B.M.

The Court has examined the pleadings and affidavit of V.T.D. and the evidence and argument of counsel and B.B.M. and finds that credible evidence has been presented that B.B.M. has a history or pattern of emotional abuse directed against V.I.P.M. and V.T.D. The Court further finds that, because of the acts of B.B.M. and the public policy considerations stated in section 153.001 of the Texas Family Code, it is in the best interest of the child that the following orders be entered.

IT IS THEREFORE ORDERED that all unsupervised possession and access to the child by B.B.M. is SUSPENDED until further order of the Court. IT IS ORDERED that visitation by B.B.M. shall be under the supervision of Hannah's House on the following days and

times:

1st, 3rd + 5th Sundays of each month between 1:00 p.m. and 3:00 p.m. B.B.M. is ORDERED to give V.T.D. 48 hours notice of his intent to exercise a period of supervised visitation. If B.B.M. fails to provide V.T.D. this notice, then it is ORDERED that the period of visitation is waived.

~~Social Study~~

~~IT IS ORDERED that _____ prepare a social study into the circumstances and condition of the child and of the home of B.B.M. The study shall be filed with the Court on or before December 1, 2018.~~

Psychological Evaluation

IT IS ORDERED that Dr. Victoria Harvey is appointed to interview, examine, evaluate, and ~~consult with~~ _____ to prepare a psychological evaluation of B.B.M. to be filed with the Court on or before December 1, 2018.

Pretrial Conference

~~IT IS ORDERED this case is set for a pretrial hearing on _____, 2018 at _____~~

Injunction

The Court finds that, based on the public policy considerations stated in section 153.001 of the Texas Family Code, it is in the best interests of the child that the following temporary injunction be issued and related orders be entered.

IT IS ORDERED that BRADLEY BRIGGLE MILLER, Respondent, and his agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise are temporarily enjoined from:

1. Exercising possession of or access to the child.

2. Going within 1000 feet of The Hockaday School for any reason.

3. Attending any of the child's games, practices, school events, and other extracurricular activities.

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 600 Commerce Street, Suite 340, Dallas, Texas 75202. 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.

THE COURT MAY MODIFY THIS ORDER THAT PROVIDES FOR THE SUPPORT OF A CHILD, IF:

(1) THE CIRCUMSTANCES OF THE CHILD OR A PERSON AFFECTED BY THE ORDER HAVE MATERIALLY AND SUBSTANTIALLY CHANGED; OR

(2) IT HAS BEEN THREE YEARS SINCE THE ORDER WAS RENDERED OR LAST MODIFIED AND THE MONTHLY AMOUNT OF THE CHILD SUPPORT AWARD UNDER THE ORDER DIFFERS BY EITHER 20 PERCENT OR $100 FROM THE AMOUNT THAT WOULD BE AWARDED IN ACCORDANCE WITH THE CHILD SUPPORT GUIDELINES.

Warnings

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.

Service of Writ

Respondent waives issuance and service of the writ of injunction, by stipulation. IT IS ORDERED that Respondent shall be deemed to be duly served with the writ of injunction.

Duration

These Temporary Orders shall continue in force until the signing of the final order or until further order of this Court. IT IS ORDERED that all injunctions contained in the Order in Suit to Modify Parent-Child Relationship entered by the Court on November 17, 2016 remain in full force and effect.

SIGNED on 6-7-18 at 9:37AM

ASSOCIATE JUDGE PRESIDING

M

Email Exchange between Miller and Trial-Court Court Reporter Francheska Duffey Regarding November 17, 2016 Hearing Transcript

(Regarding case # DF-13-02616, appeal # 05-19-00197-CV)

(2017/11/03, 2017/11/06, 2019/11/15)

APPENDIX
M

Re: Reporter's Record - DF13-02616 - 11/17/2016

From: B Miller (tech@bbmcs.com)

To: francheska.duffey@dallascounty.org

Date: Friday, November 15, 2019, 9:34 PM CST

NOTICE TO PREVENT SPOLIATION

Ms. Duffey:

In your email of November 6, 2017 (below), you indicated to me that you had a transcript for the hearing of November 17, 2016 in your possession. (As you can see, you quoted me a cost of $175 for that transcript.)

However, in the pending case # 05-19-00197 in the Court of Appeals for the Fifth District of Texas, you informed the Court of Appeals, in writing, that you did not have a transcript for that hearing.

Can you explain this discrepancy? Which statement of yours was true, and which was false?

You are hereby noticed that, if you do have the transcript of the hearing of November 17th, 2016 in your possession, or if you have an audio recording of that hearing in your possession, you are required by law to prevent the destruction of those materials. The transcript and/or audio recording of that hearing will be required for the current appeal mentioned above, as well as in future civil litigation and criminal prosecution(s). You should similarly preserve any other transcripts or recordings of any other proceedings in case # DF-13-02616.

Thank you for your assistance.

Bradley Miller
Pro Se
214-923-9165

==========

On Monday, November 6, 2017, 8:18:50 AM CST, Francheska Duffey <francheska.duffey@dallascounty.org> wrote:

Good morning.

The requested reporter's record is $175.00. The requested reporter's record will be emailed to you 10-14 days from the date that payment is received. If you would like the requested record sooner, please provide me with a date and I will advise you as to the rush fee.

From: B Miller [tech@bbmcs.com]
Sent: Friday, November 03, 2017 12:13 AM
To: Francheska Duffey
Subject: Reporter's Record - DF13-02616 - 11/17/2016

Ms. Duffey:

Could you give me a price quote for the reporter's record for the proceedings on 11/17/2016 in case number DF13-02616?

Please bear in mind that I am proceeding *in forma pauperis* in the United States

Supreme Court, and that this transcript will be required in that litigation.

Thank you.

Bradley B. Miller
pro se
214-923-9165

N

Letter from Trial-Court Court Reporter Francheska Duffey to Texas Fifth District Court of Appeals Claiming No Transcript from November 17, 2016 Hearing

(Case # DF-13-02616, appeal # 05-19-00197-CV)

(2019-06-27)

APPENDIX
N

Andrea Plumlee
330th Judicial District Court
George L. Allen Courts Building, 3rd Floor
600 Commerce Street, Suite 320C
Dallas, Texas 75202
Phone: 214-653-7450
Fax: 214-653-7790

June 27, 2019

Ms. Francheska Duffey
Official Court Reporter
214-653-7450

Ms. Rita Bartley
Court Coordinator
214-653-6188

RE: Court of Appeals No: 05-19-00197-CV
Trial Court Cause No: 13-02616-Y

STYLE: In Re: V.I.P.M.

Dear Ms. Matz,

No reporter's records exist for the following dates:

November 17, 2016
November 20, 2017
February 19, 2018
March 27, 2018
June 7, 2018
August 21, 2018
January 14, 2019

If I can be of any further assistance in this matter, I may be reached by any of the methods above.

Thank you. I remain....

Very truly yours,

/S/
Francheska Duffey

O

Findings of Fact and Conclusions of Law

(Trial Court)

(2019-08-19)

APPENDIX
O

ORIGINAL

NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA

NO. DF-18-06546

BRADLEY B. MILLER	§	IN THE DISTRICT COURT
	§	
v.	§	330TH JUDICAL DISTRICT
	§	
VIRGINIA TALLEY DUNN	§	DALLAS COUNTY, TEXAS

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In response to the request of Plaintiff, BRADLEY B. MILLER, the Court makes and files the following as original Findings of Fact and Conclusions of Law in accordance with rules 296 and 297 of the Texas Rules of Civil Procedure.

Findings of Fact

1. On April 2, 2014, this Court entered an Agreed Final Decree of Divorce in Cause Number DF-13-02616.

2. Defendant, VIRGINIA TALLEY DUNN, was the Petitioner in the divorce suit and Plaintiff was the Respondent in the divorce action.

3. The Agreed Final Decree of Divorce was based upon a Mediated Settlement Agreement signed by the parties on February 26, 2014. The Mediated Settlement Agreement bears the signatures of Plaintiff, his attorney in the divorce suit, Defendant, and Defendant's attorney in the divorce suit.

4. Plaintiff did not appear in person at the hearing on the Motion to Sign the Agreed Final Decree of Divorce on April 2, 2014. However, Plaintiff did appear by and through his attorney of record, Carol A. Wilson, at that hearing.

5. The objections lodged to the Agreed Final Decree of Divorce during the Motion to Sign were only as to the form of the order.

6. Plaintiff had knowledge of the existence of the entry of the Agreed Final Decree of Divorce on April 2, 2014.

7. After the Court entered the Agreed Final Decree of Divorce, Plaintiff did not file a motion to reinstate, a motion for new trial, or a notice of appeal of the Agreed Final Decree of Divorce.

8. The Court's plenary power over the Agreed Final Decree of Divorce expired on May 2, 2014.

9. Plaintiff filed his Original Petition for Bill of Review on March 29, 2018.

10. Defendant was served with citation in this case on or about October 5, 2018.

11. Defendant filed her Original Answer on October 26, 2018.

12. Plaintiff took no action in this case between the filing of the Original Petition for Bill of Review and the status conference that was held by the Court on July 5, 2019.

13. Defendant filed her Motion to Dismiss on July 16, 2019.

14. Plaintiff presented no evidence to the Court at the hearing on the Motion to Dismiss that he had a meritorious defense to the cause of action alleged to support the Agreed Final Decree of Divorce.

15. Plaintiff presented no evidence to the Court at the hearing on the Motion to Dismiss that he was prevented from making a meritorious defense by the fraud, accident or wrongful act of Plaintiff.

16. Plaintiff presented no evidence to the Court at the hearing on the Motion to Dismiss that he was not negligent or otherwise at fault for failing to make a meritorious defense.

17. Plaintiff failed to exhaust other legal remedies available to him to challenge the Agreed Final Decree of Divorce.

18. Defendant incurred $1,500.00 in reasonable and necessary attorney's fees in the defense against Plaintiff's Petition for Bill of Review.

Findings of Fact as Conclusions of Law

19. Any finding of fact that is a conclusion of law shall be deemed a conclusion of law.

Conclusions of Law

1. The Original Petition for Bill of Review was timely filed.

2. This Court has jurisdiction of the parties and of the subject matter of this case.

3. Plaintiff failed to exhaust his available legal remedies that were available to him to challenge the Agreed Final Decree of Divorce

4. The Petition for Bill of Review should be dismissed with prejudice.

5. The Petition for Bill of Review was filed frivolously and was designed to harass Defendant.

6. Defendant is entitled to judgment against Plaintiff in the amount of $1,500.00 for her reasonable and necessary attorney's fees, with such sum bearing post-judgment interest at the

rate of 6.000% per annum from August 1, 2019 until paid in full.

7. All other relief requested in this case and not expressly granted should be denied.

SIGNED on August 21, 2019.

JUDGE PRESIDING

P

Texas Ninth District Court of Appeals' Judgment
Affirming Trial-Court Judgment and
Dismissing Appeal

(Case # 09-19-00345-CV)

(2021/10/07)

APPENDIX
P

IN THE NINTH COURT OF APPEALS

09-19-00345-CV

BRADLEY B. MILLER

V.

VIRGINIA TALLEY DUNN

On Appeal from the 330th District Court
Dallas County, Texas
Trial Cause No. DF-18-06546

JUDGMENT

Having considered this cause on appeal, THE NINTH COURT OF APPEALS concludes that the judgment of the trial court should be affirmed. In accordance with the Court's opinion, IT IS THEREFORE ORDERED the judgment of the trial court is affirmed. No costs are assessed as the appellant established indigence.

Opinion of the Court delivered by Justice Hollis Horton

October 7, 2021

AFFIRMED

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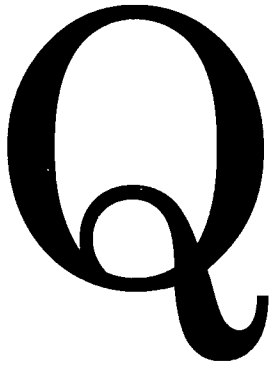
Copies of this judgment and the Court's opinion are certified for observance.

Carly Latiolais
Clerk of the Court



Texas Ninth District Court of Appeals' Opinion

(Case # 09-19-00345-CV)

(2021/10/07)

APPENDIX

Q

In The

Court of Appeals

Ninth District of Texas at Beaumont

NO. 09-19-00345-CV

BRADLEY B. MILLER, Appellant

V.

VIRGINIA TALLEY DUNN, Appellee

On Appeal from the 330th District Court
Dallas County, Texas
Trial Cause No. DF-18-06546

MEMORANDUM OPINION

In 2018, Bradly B. Miller sued Virginia Talley Dunn seeking to set aside a decree signed earlier, in 2014, in Miller's and Dunn's divorce. The trial court dismissed Miller's Petition because it did not allege facts sufficient to show that the trial court would be allowed to submit his claims of fraud to a jury even if the factual allegations in his Petition on his claim of fraud are true. Miller appealed, and he

raises nine issues for our review. For the reasons explained below, we conclude Miller's issues lack merit.

Background

In 2014, the trial court signed a decree finalizing the Miller-Dunn divorce in trial court cause number DF-13-02616.[1] The decree granted Dunn's request for a divorce, divided the couple's marital estate, and ordered Miller to pay child support. The trial court signed the decree after the attorneys representing Miller and Dunn announced they had settled the parties' dispute in the divorce at mediation. After the trial court signed the decree, Miller never filed any post-judgment motions while the trial court still had jurisdiction over the decree in which he complained about the terms of the divorce. And Miller did not file an appeal from the decree.

In 2018, Miller (representing himself without the benefit of an attorney) filed the Petition at issue here. In the Petition, Miller collaterally attacked the decree and asked the trial court to set it aside. To avoid the settlement that resulted in the trial court's approval of the decree, Miller alleged his settlement with Dunn was involuntary because, by the mediation, he had run out of money to pay for an attorney to contest the issues he now seeks to dispute in a trial. Miller also alleged

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[1]The Texas Supreme Court transferred Miller's appeal from the Dallas Court of Appeals to the Beaumont Court of Appeals in a docket equalization order. *See* Tex. Gov't Code Ann. § 73.001 (Authority to Transfer); Tex. R. App. P. 41.3 (transferee court must apply the precedent of the transferring court).

that during the mediation, he was badgered into signing the settlement agreement by his attorney and by the mediator.

Miller's Petition includes allegations of fraud. He claimed that Dunn and the trial court conspired to deprive him of his right to a fair hearing on the issues in the divorce.[2] And in the Petition, Miller complains the division achieved in the decree of the couple's property is not fair because it left him with little money, "no home[,]" and "no assets." Yet Miller has never claimed the terms he agreed to in the settlement agreement vary from the terms in the decree. He attempts to avoid the effect of his settlement, however, by claiming in his pro se Petition that he was under duress when he signed the agreement that resulted in the settlement of the disputed issues in his divorce.

Over a year later, Dunn moved to dismiss Miller's Petition. She claimed that Miller failed to pursue the remedies available to him in 2014 to complain about the alleged unfairness of the decree. No witnesses testified during the hearing, but Dunn acknowledged in the hearing when he was asked that he never filed an appeal from the decree.

After the trial court heard the arguments, it signed an order dismissing the Petition, awarded Dunn $1500 in attorney's fees, and denied "all relief requested in

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[2]*See* Tex. Fam. Code Ann. § 153.312 (providing the periods of possession for the possessory conservators who reside less than 100 miles apart).

this case and not expressly granted[.]" A few days later, Miller asked the trial court to reduce the court's findings to writing. The trial court complied. Among the written findings, the trial court found that Miller failed to exhaust the legal remedies available that were available to him in 2014 because he never filed a post-judgment motion or an appeal in which he complained about any of the terms in the final decree. The trial court's written findings explain that the $1500 the trial court awarded in attorney's fees to Dunn was because Miller's claim is frivolous and was filed to harass Dunn.

Following Miller's appeal, he filed a brief in which he raises nine issues for our review. In issues one and two, Miller argues the trial court erred by dismissing his Petition because his allegations about Dunn committing acts of fraud, if true, would allow him to obtain a judgment that would allow the trial court to void the final decree. In issue three, Miller argues the trial court erred by dismissing his Petition for want of prosecution.[3] In issues four through eight, which we will discuss together, Miller argues Dunn and the trial court failed to comply with the procedural requirements in Rule 91a of the Texas Rules of Civil Procedure before dismissing his case.[4] In issue nine, Miller argues the sanction of $1500 is excessive because he cannot afford to pay it due to his indigence.

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[3]*See* Tex. R. Civ. P. 165a.1 (Dismissal for Want of Prosecution).
[4]*See also id.* 91a (Dismissal of Baseless Causes of Action).

Analysis

Miller's first two issues argue that his Petition alleges facts that, if true, are sufficient to demonstrate that he is entitled to a judgment voiding the decree. We review a trial court's dismissal for a party's failure to plead a claim de novo.[5] When a trial court dismisses a suit on the pleadings, we take the allegations in the pleadings as true and decide whether, from the allegations in the petition, it contains facts that if true support each of the elements of the plaintiff's cause of action.[6] When collaterally attacking a former judgment in a bill of review, petitioner must allege and prove that he "exercised due diligence in pursuing all adequate legal remedies against the former judgment and, through no fault of [his] own, has been prevented from making a meritorious claim or defense by the fraud, accident, or wrongful act of the opposing party."[7]

Miller claims his Petition alleges enough facts to support his claim asserting the decree should be set aside for fraud. We disagree. When the trial court heard Dunn's motion, Miller acknowledged he never moved for a new trial, or filed an appeal complaining about the decree after the trial court, in 2014, signed it. Turning next to Miller's Petition, nothing in it alleges that Dunn is the person who prevented

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[5]*See Perry v. S.N.*, 973 S.W.2d 301, 303 (Tex. 1998); *Carter v. Abbyad*, 299 S.W.3d 892, 895 (Tex. App.—Austin 2009, no pet.).

[6]*Id.*

[7]*Wembley Inv. Co. v. Herrera*, 11 S.W.3d 924, 927 (Tex. 1999) (per curiam).

Miller from raising the claims he wanted to raise to protect his rights in the divorce promptly after the trial court signed the decree. Instead, Miller's Petition alleges facts that show he could have raised his claims in 2014 before he allowed the decree to become final. For example, he alleged he was pressured in the mediation into settling but these are facts he knew at that time. He never alleged, that even assuming it is true, the property Dunn sold in an art exhibition three days after the parties' divorce belonged to the couple or whether, instead, it is simply money Dunn earned in commissions based on her exhibition of another's art. Miller knew what rights he wanted as compared to those he received on or before the date the decree became final.

On appeal, Miller fails to explain how he could amend his Petition to cure these holes in his Petition, or how whatever additional facts he could allege if allowed to amend that would show that he could in good faith allege facts sufficient to establish the elements of his claim that Dunn's fraudulent conduct prevented him from exercising diligence to protect his rights in 2014. Instead, in his brief, Miller relies on the same excuses he relied on in the hearing that occurred on Dunn's motion to dismiss. But these excuses for not protecting his rights by not filing an appeal from the decree do not aid him because regardless of his legal sophistication or

inability to afford an attorney, all litigants must comply with the procedures that apply to those who litigate disputes in a court.[8]

Under Texas law, a litigant who ignores post-judgment remedies does so at his peril since his failure to protect his rights through the available remedies he has before a judgment becomes final makes obtaining relief from the effect of a former judgment in a bill of review proceeding unavailable.[9] Under the circumstances in this record, we cannot imagine how Miller's failure to protect his legal rights by pursuing an appellate remedy in a timely fashion in 2014 was not negligence that now operates to prevent Miller from collaterally attacking the former judgment in a bill of review.[10]

In issue three, Miller argues the trial court abused its discretion by dismissing his Petition for want of prosecution. The trial court, however, did not dismiss Miller's Petition because he failed to prosecute the suit. Instead, the order dismissing Miller's case reflects the trial court dismissed the Petition because Miller "is not entitled to a bill of review[.]" Nothing in the trial court's order suggests the trial court dismissed the Petition because Miller failed to prosecute the lawsuit.[11]

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[8]*See Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184-85 (Tex. 1978) ("There cannot be two sets of procedural rules, one for litigants with counsel and the other for litigants representing themselves.").

[9]*Wembley*, 11 S.W.3d at 927.

[10]*Gold v. Gold*, 145 S.W.3d 212, 214 (Tex. 2004).

[11]*See* Tex. R. Civ. P. 165a (Dismissal for Want of Prosecution).

In issues four through eight, Miller makes several arguments to support his argument claiming the trial court ignored the procedural requirements in Rule 91a when it dismissed his suit.[12] But Dunn's motion to dismiss was not based on Rule 91a. Her motion does not cite Rule 91a as a basis supporting her motion, and nothing in the trial court's order or its written findings reflect the trial court treated Dunn's motion as a motion for a dismissal under Rule 91a.

Even had Dunn cited Rule 91a in her motion, however, the record shows Miller never lodged a timely objection or complaint before the trial court lost its plenary power over the order of dismissal that it signed dismissing Miller's petition in August 2019.[13] Generally, to preserve a complaint for a later appeal, the party must both object and obtain a ruling from the trial court on the objection before the complaint is preserved for appeal.[14] Because to timely objections are in the record to show the trial court was aware of Miller's claim that it had not complied with Rule 91a in ruling on Dunn's Motion or complaining about Dunn's alleged failure to

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[12]*Id.* 91a.1.

[13]By then, the trial court no longer had plenary jurisdiction over the order of dismissal it signed on August 2, 2019. *L.M. Healthcare, Inc. v. Childs*, 929 S.W.2d 442, 444 (Tex. 1996) ("The trial court's plenary jurisdiction cannot extend beyond 105 days after the trial court signed the judgment."); *see also* Tex. R. Civ. P. 329b(c) (plenary power exists for seventy-five days if a party moves to alter the judgment); Tex. R. Civ. P. 329b(e) (plenary power extends for thirty days if no request to alter the judgment is filed); Tex. R. Civ. P. 5 (providing that a trial court may not enlarge the period for taking any action under the rules relating to a new trial except as stated in the rules).

[14]Tex. R. App. P. 33.1.

comply with Rule 91a, we overrule issues four through eight. Because none of Miller's arguments supporting his third issue were preserved, issue three is overruled.

In issue nine, Miller argues the trial court abused its discretion by awarding Dunn $1500 in attorney's fees in sanctions. Miller's arguments lack merit. First, the record shows Miller had both notice and a reasonable chance to be heard on his complaints about the fairness of the sanction.[15] For that reason, we reject his claim the trial court violated his due process rights. Second, trial courts may sanction litigants for signing pleadings that contain frivolous claims.[16] Third, the Constitution does not give litigants a right, even when indigent, to burden the courts by filing frivolous claims brought for purposes of harassment.[17]

Last, as additional support for issue nine, Miller argues the trial court awarded $1500 as *costs*. We disagree the $1500 represents an award of *costs*. Rule 145, the rule Miller relies on in his brief to support his argument, defines *costs* as "any fee charged by the court or an officer of the court that could be taxed in a bill of costs, including, but not limited to, filing fees, fees for issuance and service of process, fees for a court-appointed professional, and fees charged by the clerk or court

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[15]*See* Tex. Civ. Prac. & Rem. Code Ann. § 10.003 (Notice and Opportunity to Respond to Motion for Sanctions).

[16]*See id.* § 10.002 (b) (authorizing trial courts, on their own initiative, to award sanctions should a party file a frivolous pleading).

[17]*See Day v. Allstate Ins. Co.*, 788 F.2d 1110, 1114 (5th Cir. 1986).

reporter for preparation of the appellate record."[18] The $1500 awarded in the order was awarded as a sanction for Miller's filing of a frivolous pleading not as a *cost*, as that term is defined in Rule 145. Add to that, attorney's fees awarded as a sanction are not considered *costs* under the definition of *costs* in Rule 145.[19] We overrule issue nine.

Conclusion

For the reasons explained above, we conclude Miller's arguments lack merit. So the trial court's order of dismissal is

AFFIRMED.

HOLLIS HORTON
Justice

Submitted on April 20, 2021
Opinion Delivered October 7, 2021

Before Golemon, C.J., Horton and Johnson, JJ.

[18]Tex. R. Civ. P. 145(c).

[19]*Equitable Gen. Ins. Co. v. Yates*, 684 S.W.2d 669, 671 (Tex. 1984) (stating "we recognize the general rule that attorney's fees are not costs").

R

Texas Ninth District Court of Appeals' Ruling
Denying Reconsideration

(Case # 09-19-00345-CV)

(2021/10/27)

APPENDIX
R

FILE COPY

Court of Appeals
State of Texas
Ninth District

CLERK
CARLY LATIOLAIS

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BEAUMONT, TEXAS 77701
409/835-8402 FAX 409/835-8497
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October 27, 2021

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Anderson, LLP
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Frisco, TX 75034
* DELIVERED VIA E-MAIL *

Bradley B. Miller
5701 Trail Meadow Drive
Dallas, TX 75230
* DELIVERED VIA E-MAIL *

RE: Case Number: 09-19-00345-CV
Trial Court Case Number: DF-18-06546

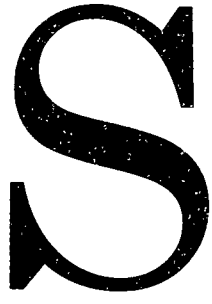
Style: Bradley B. Miller
v.
Virginia Talley Dunn

Appellant's Motion for En Banc Reconsideration was denied this date in the above styled and numbered cause.

Sincerely,

CARLY LATIOLAIS
CLERK OF THE COURT

cc: Judge Andrea D. Plumlee (DELIVERED VIA E-MAIL)
Felicia Pitre (DELIVERED VIA E-MAIL)
Francheska Duffey (DELIVERED VIA E-MAIL)
Patricia L. Rochelle (DELIVERED VIA E-MAIL)



Texas Supreme Court Ruling
Denying Review

(Case # 21-1064)

(2022/02/11)

APPENDIX
S

FILE COPY

RE: Case No. 21-1064 DATE: 2/11/2022
COA #: 09-19-00345-CV TC#: DF-18-06546
STYLE: MILLER v. DUNN

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

BRADLEY B. MILLER

* DELIVERED VIA E-MAIL *

T

Texas Supreme Court Ruling
Denying Rehearing

(Case # 21-1064)

(2022/04/01)

APPENDIX
T

FILE COPY

RE: Case No. 21-1064 DATE: 4/1/2022
COA #: 09-19-00345-CV TC#: DF-18-06546
STYLE: MILLER v. DUNN

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

BRADLEY B. MILLER
* DELIVERED VIA E-MAIL *