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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Family Court

Family Court Case No. 2021-DR-23-0394

Appellate Case No. 2023-000387

Brice Huet de Guerville, Petitioner,

v.

Sarah Huet de Guerville, Respondent.

RETURN TO MOTION TO SUPPRESS RECORDED COMMUNICATIONS

This matter comes before the Court on behalf of Petitioner (hereinafter Father and Defendant in the pending action before the Family Court for Greenville County) by and through his counsel, pursuant to Rule 240, SCACR, and S.C. Code Ann. § 17-30-10, et seq, (S.C. Homeland Security Act, hereinafter SCHSA) and Title III of the Omnibus Crime Control and Safe Streets Act of 1968, US Code Ann. 18 USCA § 2511, et seq, (also referred to as "Wiretap Act") for an Order to suppress intercepted communications between Father and the minor child by Respondent Mother (hereinafter Mother), Plaintiff in the below pending Greenville County Family Court action. Father also alleges that he did not consent to these recordings and or interceptions.

Mother opposes Father's Motion to Suppress on the grounds that she is and has been the

primary custodial parent with final decision making authority. She therefore has the ability to consent to the recording or and or interception of communications with the minor child.

1. Mother is the primary parent of the minor child with final decision making authority, as seen in the original agreement between the parties made the Order of the Court in CA 2018-DR-23-4502, filed February 20, 2020, (**EXH 1, see ¶ 9, page 5 of Memorandum of Agreement attached to Order**). Father concedes as much in his Motion to Suppress. Both parties also agreed and were ordered not to disparage the other parent and both agreed and were restrained from discussing "…the details of the litigation with the Minor Child or the order except to acknowledge that the order exists and must be followed…" (**EXH 1, see ¶ 13, page 6 of Memorandum of Agreement attached to Order**). The parties did, as is not unusual in Family Court litigation, agree that "…Each parent shall have reasonable, private access to the child/children by telephone while physical child placement is with the other parent" (**EXH 1, ¶ II C of Memorandum of Agreement attached to Order, page 20, Parenting Duties, Rights and Restrictions**). Father mistakenly claims in his Motion to Suppress that the Order and Agreement specifically "…permitted the Father to have reasonable private phone conversations with his child…" and such assertion by Father is not only inaccurate, but also critical to Mother's defense especially in light of the **actual language** of the Order and Agreement as cited above.

2. This latest round of litigation between the parties began when Mother filed a modification action, CA 2021-DR-23-0394 on February 1, 2021, to, *inter alia*, allow her to move from Greenville to Tennessee with the minor child and Father, as of the Temporary Hearing, was residing in Kansas City, MO, as reflected in that Temporary Order filed on April 12, 2021. The Temporary Order, *inter alia*, granted Mother's relocation with the minor child and appointed the prior GAL (Megan Burke) from the divorce action as GAL in the pending modification action

(**EXH 2**). Father filed a Motion to Reconsider, a hearing was held, and reconsideration denied by Order filed on June 23, 2021 (**EXH 3**).

3. Father then filed a verified contempt complaint on September 21, 2021, concerning recordings of conversations between him and the child (**EXH 4**). Mother filed a return to the contempt action with her own verified counterclaims on November 4, 2021 (**EXH 5**), alleging *inter alia*, that her violations, if any, were not willful (**EXH 5, ¶ 6, pp. 3-4**) that Father had unclean hands because he specifically violated the Order by making disparaging comments about Mother to the minor child and discussing the litigation with the minor child (**EXH 5, ¶ 8, pg. 4**). Mother also alleged that the language of the Order do not allow the parties to engage in conduct that endangers the physical or emotional wellbeing of the child, and that reasonable telephone access as mandated in the Final Order does not include language allowing Father to violate the Final Order by making disparaging comments and discussing the litigation with the child thus involving the child in litigation (**EXH 5, ¶ 10, pg. 4**). Therefore, Mother asks this Court to review Father's Affidavit attached to the Motion to Suppress as his Exhibit H, to verify that by Father's own sworn testimony that he admits to discussing the litigation with the child in violation of the Order.

Mother further specifically alleged in her verified pleading that Father has repeatedly violated Final Order by disparaging her and discussing the litigation with the child thus involving the child in litigation (**EXH 5,¶ 45-49, pg. 10**) in addition stating the same violations by Father regarding his continuously harassing, intimidating, yelling, belittling, and speaking down to Mother in front of the child (**EXH 5, ¶ 64-65, pg. 12**). Mother also alleged that Father makes disparaging comments about Mother in front of the minor child, including false claims that Mother kidnapped and stole the child, all of which has endangered the minor child's physical and emotional wellbeing (**EXH 5, ¶ 67-68. Pg. 13**).

Father blatantly admits that he has violated the Order in his Affidavit attached as his Exhibit H to the Motion to Suppress, at page 5, in the first paragraph where he states " The recordings simply show that I spoke about this case with my son."

4. Father then filed his Notice of Motion and Motion to Remove GAL and Transfer of Custody on October 31, 2022, again alleging improper recording and dissemination of recorded conversations between him and the minor child (**EXH 6**). Mother filed her Return on January 4, 2023 (**EXH 7**) the matter was heard by the trial court on January 5, 2023, and an Order filed February 3, 2023 (**EXH 8**). That last Order below required Father to file any claims as to recordings with this Court. That same Order also acknowledged Father had withdrawn his Motion to Transfer Custody subject to Mother's request for attorney's fees and costs.

5. Mother submits that under both federal and state statutes, the implied consent exception is applicable as set forth in *State v. Whitner*, 399. S.C. 547, 732, S.E. 2d 861 (2012) and *Pollock v. Pollock*, 154 F.3d 601 (6th Cir. 1998).

The SCHSA prohibits "[t]he interception of wire, electronic, or oral communications" except "in the manner permitted by this chapter." § 17-30-10; *see also* 18 U.S.C. § 2511. "The ... Act is violated when a person intercepts oral communications that are not otherwise exempt from or subject to an exception contained in section 17-30-30." *Whitner,* 399 S.C. at 553, 732 S.E.2d at 864. However, "[i]t is lawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception." S:C. Code Ann.§ 17-30-30(C) (2014); *Whitner,* 399 S.C. at 553, 732 S.E.2d at 864 ("[The] Act parallels the Federal Act passed by Congress in 1968, which similarly permits lawful interception where one party to the communication consents."). Our Supreme Court has found "the

Legislature intended the consent provision [of section l 7-30-30(C)] in the [Act] to encompass the vicarious consent of a parent on behalf of a minor child," provided the parent has a good faith, objectively reasonable basis for believing that it was necessary and in the best interest of the child to consent. *See id.* 399 S.C: at 554-56, 560, 732 S.E.2d at 864-65, 867.

Pollock, supra, is also instructive as to the application of the doctrine. As specifically noted in that case, 154 F.3d 607-608:

> The district court in the instant case held that Sandra's "vicarious consent" to the taping of Courtney's phone calls qualified for the consent exemption under § 2511(2)(d). Accordingly, the court held that Sandra did not violate Title III. The court based this decision on the reasoning found in *Thompson v. Dulaney,* 838 F.Supp. 1535 (D.Utah 1993), and *Silas v. Silas,* 680 So.2d 368 (Ala.Civ.App.1996).
>
> The district court in *Thompson* was the first court to address the authority of a parent to vicariously consent to the taping of phone conversations on behalf of minor children. In *Thompson,* a mother, who had custody of her three and five-year-old children, ***608** recorded conversations between the children and their father (her ex-husband) from a telephone in her home. 838 F.Supp. at 1537. The court held:
>
> > [A]s long as the guardian has a *good faith basis* that it is *objectively reasonable* for believing that it is *necessary* to consent on behalf of her minor children to the taping of phone conversations, vicarious consent will be permissible in order for the guardian to fulfill her statutory mandate to act in the best interests of the children.
>
> *Id.* at 1544 (emphasis added). The court noted that, while it was not announcing a *per se* rule approving of vicarious consent in all circumstances, "the holding of [*Thompson*] is clearly driven by the fact that this case involves two minor children whose relationship with their mother/guardian was allegedly being undermined by their father." *Id.* at 1544 n. 8.
>
> An obvious distinction between this case and *Thompson,* however, is the age of the children for whom the parents vicariously consented. In *Thompson,* the children were three and five years old, and the court noted that a factor in its decision was that the children were minors who "lack[ed] ****16** both the capacity to [legally] consent and the ability to give actual consent." *Id.* at 1543. The district court in the instant case, in which Courtney was fourteen years old at the time of the recording, addressed this point in a footnote, stating:
>
> > Not withstanding this distinction [as to the age of the children], *Thompson* is helpful to our determination here, and we are not inclined to view Courtney's own ability to actually consent as mutually exclusive with her mother's ability to vicariously consent on her behalf.

Pollock v. Pollock, 975 F.Supp. 974, 978 n. 2 (W.D.Ky.1997).

> The only other federal case to address the doctrine of vicarious consent is also the most recent case to analyze this issue. In *Campbell v. Price,* 2 F.Supp.2d 1186 (E.D.Ark.1998), a father, who had custody of his twelve-year-old daughter, tape-recorded conversations between the child and her mother because the father observed that his daughter "would cry and become upset after talking with her mother on the phone," and he was concerned that the mother was emotionally abusing the child. 2 F.Supp.2d at 1187. The child's mother then brought an action against the child's father, alleging that he violated 18 U.S.C. § 2511 by intentionally intercepting and recording conversations between herself and her minor daughter. *Id.* at 1188. The court, noting that "[it] uncovered no cases rejecting the vicarious consent argument," and "find[ing] persuasive the cases allowing vicarious consent," adopted the concept of vicarious consent and granted summary judgment for the father. *Id.* at 1189. In support of its decision, the court cited *Thompson* and the district court's opinion in the instant case, and noted that these cases "clearly stand for the proposition that a defendant's good faith concern for his minor child's best interests, may, without liability under Title III, empower the parent to intercept the child's conversations with the non-custodial parent." *Id.* at 1191.

Father's argument for suppression misses the mark. Mother is the primary custodial parent with final decision making authority. Both parents are under a court order, making it their duty and obligation, not to disparage the other parent and not to discuss the litigation or Order with the child. Mother has submitted under oath that Father violated these very aspects of their Final Order in his conversations with the child. Father admits to violating the Order by discussing the litigation with the minor child in his own Affidavit attached to his Motion to Suppress. Mother states in discovery responses (attached as **EXH F to Father's Motion to Suppress**) that she made the recordings of the child and Father on the child's cell phone by using her husband's cell phone, in both her home and that of her parents, while the child was with her and in a location with reasonable private access during the calls, and not with Father at the time. There is no allegation that third parties were being recorded. As reflected in the Memorandum of Law filed with the Court on January 4, 2023, as Exhibit H to the Motion to Suppress, and Mother's Affidavit filed with this Court, as stated in Mother's Affidavit in item 3, at page 2, Mother was living in a small 2 bedroom apartment, where it was difficult to have a private conversation. Mother alleges that she overheard some of the conversations between the child and Father and Mother decided she had

to record the remainder of that conversation with Father and the minor child (then 7 years old), and her fears were unfortunately confirmed, in the recordings at issue, that Father now wants suppressed, that Father was in fact disparaging Mother and discussing the litigation with the minor child in violation of the Order. Mother's Affidavit further relates the circumstances of each recording.

Father's reliance on *McMaster v McMaster*, Appellate Case No 2021-000278, filed May 7, 2021, is misplaced. In that case, Mother, who had custody of the child, moved to suppress recordings made by Father, where Father planted a sound and motion activated sound and video spy cam in the former marital residence, then left that residence, while Mother and children resumed residing in that home, with Mother later discovering the existence of that spy cam. In that case, this Court granted Mother's motion to suppress citing that she had custody of the child and exclusive possession of the marital home at the time the communications were intercepted. Second, the device recorded Mother, child, and any third parties invited into the home or on a telephone for a five (5) month period. Therefore, on those facts, Father's allegations of alienation, were deemed insufficient to justify the level of invasiveness of the spy cam in question.

In this case, Mother took very specific, limited steps to record the conversations between the minor child and Father. She only recorded when the minor child was in her custody and care, she had taken steps, as best she could to assure the child had reasonable private access to speak with his Father per the Order. It was only after Mother overheard a portion of the conversation and saw the detrimental effects of Father's conversations with and or in front of the child, that Mother began recording the conversations between Father and child. Given the circumstances and the fact that these recordings are the best evidence of Father's contemptuous, harmful conduct, Mother requests this Court to review the recordings. Further, under oath, Mother attests Father was

violating the Final Order by disparaging her, making negative comments about her, accusing her of kidnapping and stealing the child from Father, and discussing the litigation with the child thus involving the child in the litigation and harming his wellbeing in violation of the Order. Father even admits to discussing the litigation with the minor child in his Affidavit as stated above. As such, Mother had a reasonable basis to vicariously consent to the recordings in question.

Father moves to suppress the best evidence because he does not want any Court to review his actual conversations and statement to the minor child. Father also ignores the circumstances supporting Mother's decision to record, and Father denies the detrimental effect his words had on the child. Father, seeking to avoid any review of his violations of the Order, and his actions and word in direct violation of the Final Order, wants this and any Court to ignore the best interests of the minor child. Mother's role as primary custodial parent and her duty to protect the minor child from Father's violations of the Order in place which cause harm to the minor child outweighs Father's flawed claim of privacy rights. In this case, Mother had reasonable grounds and concerns to record the conversations of Father and child. Mother is prepared to submit the recordings as the best evidence to the Court for review, plus any other requested evidence or information, upon this Court's instruction.

Alternative methods to uncover the contents of the conversations amount to a requirement that the minor child be put through an inquisition of third party examinations, as opposed to this Court and lower courts simply reviewing what Father actually said. Clearly, Father simply wants to conceal his contemptuous behavior from all Courts giving little concern to the child's best interest.

As long as minor child's Mother has a good faith objectively reasonable basis for believing that the recording of their child's telephone conversations with the child's Father is necessary and

in the best interest of the child, the consent provision of Wiretap Act is triggered and the vicarious consent doctrine is encompassed such that the Mother in this case could vicariously consent on behalf of child to the recording *State v. Whitner*, 399 S.C. 547 at 554, 732 S.E.2d 68 at 864 (S.C. 2012). Further, Mother's affidavit details the motivation upon which she determined to record the conversations which is a question of fact. The parent's motivation is a question of fact, and in *Whitner*, *supra*, 399 S.C. 547 at 557, 732 S.E.2d 68 at 867, our Supreme Court ruled sufficient that Mother there believed the recordings would assist in deciding the best course of action and in determining whether the victim needed counseling, and were therefore in the child's best interest.

For these reasons and such further reasons as may appear at any hearing to be set on the matter, Mother moves to be allowed to submit the recordings in question to this Court for review, moves for a hearing to be held by this Court as allowed by S.C. Code Ann. § 17-30-110, *et seq*, and U.S. Code Ann., 18 U.S.C.A. § 2511*, et seq*, moves to be allowed to submit such additional affidavit(s) or other evidence as this Court deems appropriate to facilitate this Court's full consideration of this matter and to provide any appropriate rulings as to the recorded communication(s). In addition, Mother seeks an Order allowing the use of and disclosure of all documents and or records concerning the conversation of Father and the minor child, plus, such other action, rulings and other relief as may be appropriate in this matter, including but not limited to an award of attorney's fees, costs and expenses.

Respectfully submitted.
s/Brian Dumas
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March 17, 2023

EXHIBIT 1

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	Case No.: 2018-DR-23-4502
Sarah Huet de Guerville,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**FINAL ORDER FOR DIVORCE**
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	
	)	

Date of Hearing:	February 20, 2020
Presiding Judge:	The Honorable Jessica Ann Salvini
Attorney for Plaintiff:	Angela E. Frazier, Esq.
Attorney for Defendant:	Linda C. Hayes, Esq.
Guardian *ad Litem*:	Megan Goodwin Burke, Esq.
Court Reporter:	~~DCRP~~ Tracy McBride JS

This is an action instituted by the Plaintiff Sarah Huet de Guerville, ("Plaintiff"), seeking an Order of Separate Support and Maintenance allowing Plaintiff to live separate and apart from Defendant Brice Huet de Guerville, ("Defendant"), and an order for custody, child support, visitation, equitable division of assets and debts, alimony and other ancillary relief.

Plaintiff filed a Summons and Verified Complaint on October 19, 2018, along with a Notice of Motion and Motion for Temporary Relief, seeking an Order of Separate Support and Maintenance. Defendant was personally served with the filed Notice of Motion and Motion for Temporary Relief, Summons and Verified Complaint on October 22, 2018. An affidavit of service was filed on October 26, 2018. Defendant's attorney Linda C. Hayes, Esq., and filed an Answer and Counterclaim and Return to Motion on November 7, 2018. Plaintiff filed an Amended Verified Complaint on November 16, 2018. Defendant's attorney Linda C. Hayes, Esq., accepted service of the Amended Complaint, on November 26, 2018. Plaintiff filed a Reply on November 26, 2018. A temporary hearing was held on November 28, 2018, resulting in a Temporary Order, which was filed on January 7, 2019.

Plaintiff filed a Rule to Show Cause, Summons and Verified Contempt Complaint on November 22, 2019. Defendant was personally served with the filed Rule to Show Cause, Summons and Verified Contempt

Complaint on January 10, 2020. A final settlement agreement between both parties as to the present litigation was reached, and the Plaintiff agreed to dismiss the Rule to Show Cause Hearing and set the Final Hearing for February 20, 2020.

Present for the final hearing were Plaintiff, Plaintiff's attorney, Angela E. Frazier, and Plaintiff's corroborating witness. Defendant was not present. Defendant's attorney presented a Consent to Order and Waiver of Hearing signed on January 17, 2020, which waived the Defendant's presence at the Final hearing and any further notice of the Final Hearing and provided his consent to approve the agreement without the necessity of a court appearance. The Consent to Order and Waiver of Hearing specifically provided the Defendant's authority to his attorney to bind the Defendant to the agreement. Also present in the courtroom at the time of the final hearing was the duly appointed Guardian *ad Litem*, Megan Goodwin Burke.

At the commencement of this action, the Court was advised the parties had entered into an agreement resolving all the issues arising from their marriage. The parties now desire this Court to review their agreement, approve their agreement, thereby making the parties' agreement a part of this Court's Final Order for Divorce, ("Final Order"), herein.

Therefore, after reviewing the pleadings, the information set forth in the parties' Agreement, Plaintiff's attorney, Defendant's attorney, and the Guardian *ad Litem*, in this matter and considering the financial declarations filed by the parties at the time of the final hearing, as well as the testimony of the Plaintiff and her corroborating witness, who confirmed that Plaintiff and Defendant had not lived together since October 19, 2018, with any reconciliation or cohabitation, and the representations made by counsel, this Court makes the following FINDINGS OF FACT AND CONCLUSIONS OF LAW and issues this Final Order accordingly.

JURISDICTION

1. At the time of the filing of this action, the Plaintiff and Defendant were citizens and residents of Greenville County, State of South Carolina, and had been for more than three (3) months prior to the commencement of the action.

2. The parties last resided together as husband and wife in Greenville County, State of South Carolina.

3. The parties were lawfully married to one another on October 29, 2011, in Clark County, State of Nevada.

4. The parties have been living separate and apart since October 19, 2018.

5. That of this marriage one (1) child was born, to wit: Aidan H., ("Aidan" or "Minor Child"). Aidan is a minor child. No other children were born, and none are expected.

6. This action is brought pursuant to S.C. Code Ann. § 63-3-530 (1976, as amended), and includes, without limitation, requests for child custody, child support, visitation, property and debt division, alimony, attorney's fees and costs, and ancillary relief. I find that both parties have voluntarily submitted themselves and the subject matter of this action to this Court for final determination. I further find that this Court has jurisdiction over the parties and the subject matter of this action and that venue is proper in this Court.

DIVORCE

7. The Plaintiff seeks a divorce from the Defendant on the grounds that the parties have continuously lived separate and apart from one another for a period in excess of one (1) year without cohabitating or reconciling with one another. The Plaintiff testified she separated from the Defendant over one (1) year ago, and the parties have continuously lived separate and apart from one another since that time, without cohabiting or reconciling. The Plaintiff's witness corroborated the parties' continuous separation from one another in excess of one (1) year, without reconciliation or cohabitation.

8. Further, after due inquiry, pursuant to S.C. Code Ann. § 20-3-90, this Court finds that the parties are not in collusion with one another nor is there a possibility of reconciliation. Based thereon, this Court grants the Plaintiff's request for a divorce from the Defendant on the grounds that the parties have continuously lived separate and apart from one another for a period in excess of one (1) year without cohabitation or reconciliation. The action for divorce was brought in good faith and without collusion between the parties.

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9. Both parties represent that they will each be responsible for their own attorney's fees and costs associated with the present action.

10. Additionally, Plaintiff's attorney made a motion to amend the pleadings to include a request for a divorce on the statutory ground of one (1) year continuous separation. The Defendant's attorney joined in this request, and the Court granted the motion. The issue of divorce was then properly before the Court for determination.

AGREEMENT

11. I find that the parties have reached an agreement, fully and finally resolving all issues arising from the pleadings in this action. The parties have requested that this Court review, approve, adopt, and incorporate the terms of their agreement, which are more fully set forth in the documents attached hereto and incorporated herein by reference entitled: "Memorandum of Agreement for Sarah Huet de Guerville vs. Brice Huet de Guerville, 2018-DR-23-4502", ("Agreement"), as **"Exhibit A"**.

12. Settlements between litigants are encouraged. In determining whether or not to approve a settlement agreement this Court must find (1) the existence of an agreement; (2) that the agreement is entered into freely and voluntarily; and (3) that the agreement is fair and equitable from procedural and substantive perspectives.

13. An Agreement clearly exists between these parties. The terms of the Agreement are more fully set forth in the Agreement, which is attached hereto as **Exhibit A**.

14. There is no indication that either party was forced, under any duress or coercion and both parties were free of any mind altering or judgment impairing substances at the time that they entered into the Agreement and at the final hearing. Therefore, the Agreement was entered into freely and voluntarily.

15. Procedurally, each party represented familiarity with the assets, ability to pay, debts, income and expenses of the other, thereby enabling each of them to enter into the Agreement from an educated perspective. Each party indicated he or she fully disclosed all of his or her assets, debts, income and expenses to the other party. The Agreement is the product of compromise and negotiation. Therefore, the Agreement is procedurally fair.

16. Substantively, the Agreement reflects a disposition of all issues raised by the pleadings in this action, saving and accepting the issues of the ground for divorce itself. The disposition of all such issues is within the range of fairness, given this Court's experience. Upon review of the Equitable Apportionment Act (S.C. Code Ann. § 20-3-610 et. seq.), and other applicable law, the parties' Agreement is fair and equitable. As the parties are directly affected by this Agreement, they should be in the better position to judge the fairness of it. Therefore, the Agreement is fair and equitable from both procedural and substantive perspectives.

17. Furthermore, the Guardian *ad Litem* has conducted a thorough, balanced, independent and impartial investigation in connection with this matter; has represented the best interests of the parties' Minor Child; and has otherwise fulfilled all duties, obligations and requirements imposed by S.C. Code Ann. § 63-3-810 et seq. and the prevailing case law of this state. The parties have waived the preparation and submission of a written report by the Guardian *ad Litem* in light of the fact that the parties reached an Agreement on all issues pertaining to the Minor Child.

The parties agree to modify paragraph 51 of the signed Agreement, proving for a pro rata split of the Guardian *ad* Litem fees. The parties agree to modify paragraph 51 of the Agreement so that each party shall pay 50% of the Guardian *ad Litem* fees. The total Guardian *ad Litem* fees are $4,041.00. The Plaintiff has paid $1,807.75, such that she still owes $212.75. The Defendant has paid $1,000.00, such that he still owes $1,020.50. Both parties agree to pay the Guardian *ad Litem* the amount owed within thirty (30) days of the date of the final hearing, or as agreed to in writing by the Guardian *ad Litem*. The Guardian *ad Litem* is hereby relieved of any further service in this matter, and her appointment as Guardian *ad Litem* is hereby terminated.

18. In addition to thoroughly and carefully reviewing the parties' Agreement, the Court believes, that the Plaintiff and the Defendant understand their rights and responsibilities under this Agreement. The Court finds that the Agreement is fair and equitable and is in the best interest of both parties and the Minor Child, and is hereby approved, adopted, incorporated into, merged with, integrated with, and made the Final Order in this action.

JS

19. I find that the parties negotiated their Agreement with both parties having the benefit and advice of independent experienced legal counsel. Plaintiff is satisfied with her attorney and the representation of her attorney. The parties understand the Agreement is a full and final agreement of all legal issues arising out of their marital relationship.

20. The parties agree that the Plaintiff should be entitled to resume the use of her maiden name, Sarah Marie Hunt. The Plaintiff is not under any court order to pay child support or alimony, The Plaintiff has not been convicted of any crime. The Plaintiff is not requesting to resume the use of her maiden name to evade creditors. The Plaintiff has not filed for bankruptcy. Plaintiff does not have a criminal record and is not requesting to change her name to avoid criminal prosecution or to evade service of an outstanding arrest warrant. The Plaintiff is not named on any sex offender registry and has never been registered as a person who has committed abuse, neglect or harm or threatened abuse, neglect or harm to any child or children. The Plaintiff represents she is not on any terrorist watch list. Plaintiff has never been investigated by the Department of Social Services or been denied a passport. Plaintiff has not ever been in the custody of the Department of Corrections.

NOW, THEREFORE, BASED UPON THE FOREGOING, IT IS ORDERED, ADJUDGED, AND DECREED:

a. That Plaintiff's Motion to Amend the Pleadings to include a request for a divorce on the statutory divorce on the ground of one (1) year continuous separation is granted;

b. That Plaintiff is granted a decree of divorce, *a vinculo matrimonii* on the grounds of one (1) year continuous separation;

c. That the terms and conditions of the negotiated Agreement, which are more fully set forth in the document entitled "Memorandum of Agreement for Sarah Huet de Guerville vs. Brice Huet de Guerville, 2018-DR-23-4502", and is attached hereto as **Exhibit A**, is hereby, approved, adopted, incorporated into, merged with, integrated with and made the Final Order of this Court;

d. That Plaintiff should be entitled to resume the use of her maiden name, Sarah Marie Hunt. The Plaintiff is not under any court order to pay child support or alimony, The Plaintiff has not been convicted of any crime. The Plaintiff is not requesting to resume the use of her maiden name to evade creditors. The Plaintiff has not filed for bankruptcy. Plaintiff does not have a criminal record and is not requesting to change her name to avoid criminal prosecution or to evade service of an outstanding arrest warrant. The Plaintiff is not named on any sex offender registry and has never been registered as a person who has committed abuse, neglect or harm or threatened abuse, neglect or harm to any child or children. The Plaintiff represents she is not on any terrorist watch list. Plaintiff has never been investigated by the Department of Social Services or been denied a passport. Plaintiff has not ever been in the custody of the Department of Corrections. That this Court retains jurisdiction for purposes of enforcement of the Agreement; and

e. That this Agreement shall be enforced by the contempt powers of the Greenville County Family Court.

AND IT IS SO ORDERED.

The Honorable Jessica Ann Salvini
Judge of the Family Court
Thirteenth Judicial Circuit

February 20, 2020
Greenville, South Carolina

A Certified Copy
Paul B. Wilkerson
Clerk of Court C.P. & G.S. & Family Court
Greenville County, SC
Dated 2/20/2020

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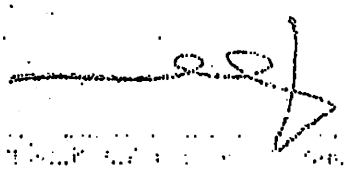

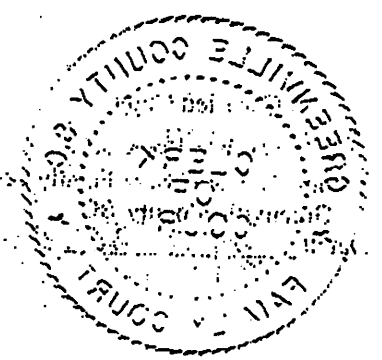

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE
	)	THIRTEETH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	C/A. NO.: 2018-DR-23-4502
Sarah Huet de Guerville,	)	
	)	
Plaintiff,	)	**MEMORANDUM OF AGREEMENT**
v.	)	
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	
	)	

PREAMBLE

THIS CONTRACT AND AGREEMENT, made and entered into this 21st day of January, 2020, by and between Plaintiff Sarah Huet de Guerville, ("Plaintiff"), and Defendant Brice Huet de Guerville, ("Defendant").

WITNESSETH:

WHEREAS, the parties to this Memorandum of Agreement, (hereinafter "Agreement"), were duly and legally married on the 29th day of October, 2011, in Clark County, State of Nevada; and

WHEREAS, the parties are currently engaged in marital litigation involving divorce, child custody, visitation, child support, alimony, equitable division of property and debts, attorney's fees and costs and other ancillary relief; and

WHEREAS, the Plaintiff is represented by attorney Angela E. Frazier, and Defendant is represented by attorney Linda C. Hayes. Both Plaintiff and Defendant have had full opportunity to consult with an attorney; and

WHEREAS, the parties now consider it to be in their respective best interests to settle between themselves all matters and issues arising heretofore, or hereafter to arise, from their marital union, except for the divorce itself, which would have otherwise been adjudicated by a Court of competent jurisdiction and have reached a complete final and permanent settlement agreement and now wish to reduce their Agreement to writing and desire that it shall constitute a total Agreement between them with respect to

all matters relative to alimony, debt allocation, property division, child custody, visitation, and child support, attorney's fees and costs and all other matters which were raised or could have been raised between the parties hereto; and

WHEREAS, the parties understand that once this Agreement is made a court order all issues regarding their marital rights and responsibilities, including spousal support, alimony, equitable division of property, allocation of debts, child custody, visitation, and child support, attorney's fees and costs, and all matters related thereto are settled with finality; and

WHEREAS, both parties acknowledge that each is completely familiar with the financial ability, income, earning potential, properties, assets, debts, expenses, liabilities, worth and assets of the other, having reviewed the sworn Financial Declarations of the other and other documentation, and both parties represent that they have made a full and fair disclosure of same without fraud or misrepresentation. Both parties represent and warrant that neither incurred any debt, lien, or encumbrance on any asset described herein during the pendency of the action, and if so, the other party was promptly notified of all relevant details. Plaintiff and Defendant agree that the Financial Declarations submitted to the Family Court accurately depict the estimated living expenses for both households going forward; and

WHEREAS, both parties recognize that they are not entering into this Agreement as a result of any duress or undue influence; and they further recognize that each party has freely, actively, and fully taken part in the negotiations hereof over a reasonable period of time, and each fully accepts the terms and conditions hereof, and each party acknowledges and considers the same to be a fair, just, and equitable Agreement; and

WHEREAS, both parties agree that they have had sufficient time to read this Agreement; and

WHEREAS, both parties certify they have fully read and that they fully understand all the terms, conditions, and provisions in this Agreement, and that with such knowledge, each of them is signing this Agreement freely and voluntarily as the natural consequence of the breakdown of their marriage and have ascertained and weighed all the facts and circumstances likely to influence their judgment herein; and

WHEREAS, both parties have not entered into this Agreement under the influence of any drugs, alcohol, prescription medications, intoxicating substance, or mental condition that might impair their ability to understand the terms and conditions of this Agreement and its' effects or that might impair their ability to reason or exercise their free will; and

WHEREAS, Plaintiff represents that she is satisfied with her attorney and that she has been competently, fully, and fairly represented and advised of all her rights and responsibilities and that all of her questions have been answered to her satisfaction; and

WHEREAS, Defendant represents that he is satisfied with his attorney and that he has been competently, fully, and fairly represented and advised of all his rights and responsibilities and that all of his questions have been answered to his satisfaction; and

WHEREAS, both parties do not intend, by this Agreement, to condone any conduct on the part of the other which may now, or hereafter, constitute grounds for divorce and are not in collusion in any way whatsoever with respect to any action to obtain a divorce which either has instituted, or may hereafter be instituted, in a court of competent jurisdiction; and

WHEREAS, both parties intend that this Agreement should be approved, adopted, and made an order or decree by a court of competent jurisdiction after a hearing upon same, whether or not such court issues an order or decree of divorce to either party, and that this Agreement shall be incorporated in, merged with, and become a part of such order or decree and shall be fully enforceable as the order or decree of the court that approves it; and

WHEREAS, both parties understand that any violation or noncompliance of this Agreement, as an order of the court, may be deemed as contempt of court; and

WHEREAS, both parties are desirous of avoiding the uncertainty of litigation, trials and/or appeals, and they are desirous of obtaining the security of the terms, conditions, and provisions agreed to, accepted, and contained herein and further expediting the finalization and resolution of all disputes, controversies, and differences existing between them; and

NOW, THEREFORE, in consideration of the mutual and several binding promises, transfer of assets, assumption of liabilities, agreements, covenants, and undertakings herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby further acknowledge full satisfaction of the terms and conditions hereof and acknowledge the terms and conditions of this Agreement to be fair, just, equitable, adequate, and reasonable, and hereby freely and voluntarily agree and bind his/her/themselves, and his/her/their heirs, executors, administrators, assigns, estates, and any and all successors, as follows:

AGREEMENT OF THE PARTIES

1. ***Jurisdiction.*** The Plaintiff is a citizen and resident of Greenville County, State of South Carolina and has been for more than three (3) months prior to the commencement of the present action. Plaintiff last resided with Defendant in Greenville County, State of South Carolina.

2. ***Jurisdiction.*** At the time of the commencement of the action, Defendant was a citizen and resident of Greenville County, State of South Carolina, but Defendant now resides in Kansas City, Missouri.

3. ***Marriage.*** Plaintiff and Defendant were married on October 29, 2011, in Clark County, State of Nevada. They are husband and wife.

4. ***Separation.*** Plaintiff and Defendant have been living continuously separate and apart without cohabitation or reconciliation since on or about October 19, 2018, and it is their intention and agreement to continue to live separate and apart.

5. ***Jurisdiction and Venue.*** The parties stipulate to the personal and subject matter jurisdiction of the Family Court of South Carolina, and to Greenville County, State of South Carolina being the proper jurisdiction and venue for the current action and for future modification and enforcement of the terms of this Agreement.

6. ***Jurisdiction.*** Both parties agree that South Carolina is the home of the Minor Child. As such, both parties agree to give the Family Courts of South Carolina exclusive jurisdiction to enforce and/or modify the terms of this Agreement related to the Minor Child.

7. ***Separate Support and Maintenance.*** Plaintiff seeks an Order of Separate Support and Maintenance allowing Plaintiff to live separate and apart from Defendant. Plaintiff and Defendant are each free to engage in and conduct their respective social lives as if they were single and never married, without any interference from the other and without any impact on the enforceability of this Agreement.

CHILD CUSTODY/VISITATION/CHILD SUPPORT/OTHER CHILD ISSUES

8. ***Children.*** Of this marriage one (1) child was born, to wit: A.H., ("Minor Child"). No other children were born of this marriage, and no other children are expected.

9. ***Joint Legal Custody with Primary Placement to the Plaintiff.*** The parties agree to share joint legal custody of their Minor Child, with primary placement with Plaintiff. On all major parenting decisions, the parties will consult and use good faith efforts to resolve differences, but if the parties are unable to agree on the major parenting decision, Plaintiff will have the right to make the final decision.

10. ***Visitation.*** Defendant will have visitation with the Minor Child pursuant to the terms and conditions found in *Judge W. Marsh Robertson's Child Placement and Parenting Plan* with the Plaintiff as the custodial parent and the Defendant as the visiting parent, a copy of which is attached hereto and incorporated herein by reference as **"Exhibit A"** and which is modified such that the Defendant is waiving any mid-week visitation set forth in Paragraph I(B) and that pickup and drop off shall be as set forth herein rather than as set forth in Paragraph II(A) of **Exhibit A.** The parties agree to use their reasonable best efforts to have the weekend visitation for the Defendant coincide with the weekend visitation of the Defendant's daughter, C.E.W. If there is a substantial change in circumstances, then either party may file for a modification of the current Agreement. Both parties shall be bound by the Parenting Duties, Rights and Restrictions found in **Exhibit A.** Both parties will provide each other with notice of all travel outside of the State of the residence of the Plaintiff and Minor Child. Pick up and drop off of the Minor Child will be in Greenville County, South Carolina unless mutually

agreed upon otherwise.

11. ***Extracurricular Attendance.*** Both parents are allowed to attend all extracurricular activities of the Minor Child. Both parties shall have access to the Backpack website or other similar website provided by the school in which the Minor Child is attending so that both parties are aware of any school functions. Both parties shall provide the other with the contact information for extracurriculars so that they may each contact these persons and sign themselves up for any notices or communications provided, as well as any online login account information.

12. ***No Adverse Contact Order.*** Both parties shall be entitled to a "no adverse contact order" ("NACO"), that shall restrain and enjoin both the Plaintiff and Defendant from engaging, directly or indirectly, in any adverse, hostile, argumentative, threatening or unpleasant conduct, or any conduct beyond or worse than that described. This NACO shall allow the parties to contact, associate and communicate with each other only so long as both parties consent to such conduct; however, either party may end any contact, association or communication if he or she deems any contact, association, or communication as being adverse, hostile, or unpleasant. This NACO is not intended to trigger any elements of 18 U.S.C.A. § 922(g)(9), nor is it intended to rise to the level of, or be considered as, an Order of Protection under the South Carolina Protection from Domestic Abuse Act. Violation of this NACO shall subject the offending party to contempt of the Court.

13. ***Comments to the Minor Child.*** Both parties are restrained from making any disparaging comments about the other parent to the Minor Child, and neither party shall discuss the details of the litigation with the Minor Child or the order except to acknowledge that the order exists and must be followed, except if the Minor Child is in counseling or other psychological/psychiatric care and the Minor Child's provider believes it is in the Minor Child's therapeutic best interest to discuss the same.

14. ***Child Support Paid Directly.*** The parties agree that child support is to be paid by the Defendant directly to the Plaintiff in the semi-monthly amount of $583.00 on the 1st and the 16th day of every month in accordance with the *South Carolina Department of Social Services Child Support Guidelines.* Child support is

further calculated based on the parties having one (1) Minor Child together and on the Plaintiff's gross monthly income of $5,000.00, with the Plaintiff being given credit for paying $375.00 a month in child care and with the Defendant's gross monthly income of $11,267.00 and paying $654.00 in child support for a second child. Defendant's obligation shall begin on the first day of the month following the Final Order being filed with the Court and continuing thereafter. A copy of the child support worksheet is attached hereto and incorporated herein by reference as **"Exhibit B"**. If the Defendant is late more than five (5) days, then the Plaintiff may file an affidavit with the Clerk of Court. Upon filing of said affidavit, then the Defendant shall pay child support through the Clerk of Court, along with the administrative fee which is currently five percent (5%).

15. ***Child Support/Family Support Arrearage and Health Insurance Reimbursement under the Temporary Order.*** The Defendant acknowledges he is in arrears to the Plaintiff for child support/family support, mortgage payments, and reimbursement for health insurance under the Temporary Order in the total agreed upon amount of $5,869.00 as of October 31, 2019. Defendant agrees to pay from his portion of the proceeds from the real estate closing on the Marital Home $5,869.00, plus 5% interest, which amount shall be deducted from the Defendant's portion of the real estate proceeds as part of the real estate closing. Defendant further agrees to remain current on his child support/family support and reimbursement of health insurance, and other obligations as set forth in the Temporary Order, with the exception that the Plaintiff waives any further rights to any mortgage payments accrued since November 1, 2019. However, if the Defendant fails to remain current in paying the child support/family support and reimbursement for health insurance or any other financial obligations, other than the mortgage payment, under the Temporary Order, beginning November 1, 2019, then Defendant agrees any additional arrearages shall be added to the current balance of $5,869.00 and shall also be paid from the Defendant's portion of the proceeds from the sale of the Marital Home, plus 5% interest.

16. ***Health Insurance.*** The Plaintiff agrees to be responsible for maintaining health insurance on the Minor Child, as long as it is reasonably available through her employer.

17. ***Uncovered Medical Costs and Expenses for the Minor Child.*** The parties agree to pay for all uncovered medical costs and expenses on a pro rata basis for the Minor Child in accordance with the *South Carolina Department of Social Services Child Support Guidelines*. Each party is responsible for sending the other party a copy of any invoices received for uncovered medical costs within (10) business days of receipt. As to any uncovered medical costs and expenses shown on the invoice, each party has ninety (90) business days from receipt of the invoice to pay their percentage of the uncovered amount owed to the provider directly.

18. ***Parental Contact.*** The parties agree they may both contact each other by text or e-mail regarding the Minor Child, and by phone, if the conversations remain civil. Upon written notice by either party, communications may only be made in writing.

19. ***Relocation.*** Plaintiff shall give the Defendant ninety (90) day notice of her intent to relocate prior to any move.

20. ***Guardian Recommendations and Supervised Visitation for the Paternal Grandmother.*** Any recommendations of the Guardian *ad Litem* will be followed; however, there shall be no unsupervised contact with the paternal grandmother and Minor Child. The paternal grandfather may not supervise any visitation.

21. ***Best Interest of the Minor Child.*** The parties agree and believe that this Agreement is in the best interest of the Minor Child.

EQUITABLE APPORTIONMENT

22. ***Waiver as to Financial Accounts and Other Property.*** Except as stated in this Agreement, the parties each release and relinquish any and all right, title and interest, including but not limited to, all legal and equitable interests, which either may have in any and all property, (real, personal or mixed) in the name of the other, including, but not limited to, checking, savings, money market accounts, retirement accounts, IRA's, 401k's, stocks, bonds, certificates of deposit, investments, interest in business ventures of any nature, annuities, pension and profit sharing plans, educational degrees, businesses, contractual rights (other than those created by this Agreement), and occupations. Each party

shall have and retain exclusive use, possession, and ownership of all assets titled in his or her name, except as expressly set forth in this Agreement.

23. ***Employment.*** Financial Declarations for both the Plaintiff and Defendant are attached hereto and incorporated herein by reference as "**Exhibit C**".

24. ***Costs and Expenses Associated with Equitable Division.*** Plaintiff and Defendant each acknowledge and agree to be solely responsible for and shall pay all costs relating to ownership, taxes, insurance, maintenance, and improvements on any and all real, personal or mixed property each party receives pursuant to this Agreement unless expressly stated otherwise herein. Each party agrees to immediately refinance and/or take the other party's name off of any property and/or debt received pursuant to this Agreement unless expressly stated otherwise herein.

25. ***Indemnification and Hold Harmless.*** Plaintiff and Defendant agree to indemnify and hold each other harmless for all present or future judgments, liens, or other indebtedness relating to any property or asset, which they are receiving pursuant to this Agreement unless expressly stated otherwise herein.

26. ***Real Property.*** The parties agree that Plaintiff will have the continued use and possession of the Marital Home located at 128 River Valley Lane, Greenville, South Carolina 29605 (the "Marital Home"), and will be responsible for the debt, as of November 1, 2019, plus the taxes, insurance, and utilities. Utilities shall be defined as water, internet, electric, gas, cable, trash pickup, lawn care, house cleaning, and CPI security monitoring. If the Defendant fails to make any payment directly to the Plaintiff or fails to make any child support/family support payment or reimburse the Plaintiff for health insurance under the terms of the Temporary Order, then any missed payments for child support/family support and health insurance reimbursements shall be deducted from the Defendant's portion of the proceeds from the Marital Home at the time of closing. In addition, the Defendant's portion of the proceeds from the Marital Home shall further be reduced as set forth in Paragraph 14 of this Agreement. The parties agree to use their reasonable and best efforts to list the Marital Home for sale with MLS no later than January 24, 2020.

Both parties agree to use Lisa Whitted as the realtor. Both parties agree to cooperate with the real estate agent regarding the listing price of the Marital Home and negotiating any offers that are made. The parties agree no reasonable offers will be refused, that any mutually agreed upon repairs necessary for sale will be divided equally, that the Plaintiff will keep the house in showable marketable condition or will make so upon notice of any showing. The parties agree to split the fee for the realtor and any other costs and expenses associated with the real estate closing equally. The parties agree to split net proceeds from the sale of the Marital Home equally, except that the parties agree that any amount remaining to be paid by the Defendant as set forth in Paragraph 14 of this Agreement shall be deducted from the Defendant's portion of the settlement proceeds from the sale of the Marital Home. In addition, since the Plaintiff is responsible for any amount owed on the mortgage for the Marital Home as of November 1, 2019, then the Plaintiff shall receive the benefit of any and all amounts paid towards the reduction of the principal and interest on the Marital Home as of November 1, 2019, in the calculation for any proceeds paid at the closing of the Marital Home. A copy of the mortgage statement as of November 1, 2019, is attached hereto and incorporated by reference as "**Exhibit D**".

Plaintiff agrees to allow Defendant to set a reasonable sale price of the Marital Home with the realtor and negotiate concessions with potential buyers, as well as agreed on final sale price. Defendant will notify the Plaintiff of all offers of concession and will confer with Plaintiff. If Plaintiff and Defendant cannot come to a mutual agreement on which concessions to agree to, then the Defendant will have final say. Plaintiff also agrees to allow Defendant to have final say over what items are needed to prepare the house for sale, except that any requests shall be reasonable, and any costs associated therewith shall be equally split between the parties. Any reasonable repairs for normal wear and tear to the Marital Home shall be made by the Plaintiff, including the broken microwave handle and leaking faucets. Defendant agrees to pay Plaintiff $600.00 to assist in the 2020 costs of maintaining the Marital Home of which will paid out of proceeds of home sale. The $600.00 is not subject to 5% interest.

27. ***Loan Proceeds.*** The parties agree that the Defendant did take out a loan in the amount of

$28,000.00 for which he shall remain solely responsible, and if for some reason, this loan is required to be paid as part of the real estate closing for the sale of the Marital Home, then the Defendant agrees that his portion of the proceeds from the Marital Home shall be reduced in an amount necessary to payoff the loan and any other interest or fees associated with the loan.

28. ***Plaintiff Motor Vehicle.*** Plaintiff will have use, possession, and ownership of the 2015 Honda Odyssey automobile, and will be responsible for the debt, taxes, insurance, and maintenance associated with the 2015 Honda Odyssey. The Plaintiff shall refinance the 2015 Honda Odyssey automobile into her name within 90 days of this Agreement.

29. ***Defendant Motor Vehicle.*** Defendant currently leases a 2018 A4 automobile, which is leased in his name only. The Defendant will have use and possession of the 2018 A4 automobile, and will be responsible for the lease payments, insurance, and any other costs for which he is contractually obligated to pay regarding the 2018 A4 automobile. Defendant agrees to indemnify and hold the Plaintiff harmless as to any and all costs, expenses or payments for the 2018 A4 automobile.

30. ***Household Goods, Furnishings and Personal Property.*** The personal property of the marriage has been divided to the parties' mutual satisfaction. Each party shall have the full ownership and possession of the property in his or her own possession or titled in his or her own name and is to be responsible for any debt, maintenance, upkeep, and repair of the personal property.

31. ***Plaintiff's Fidelity 401(K) Retirement Account.*** Defendant is to receive Four Thousand Nine Hundred Fifty-Eight Dollars and 00/100 ($4,958.00) from the Plaintiff's Fidelity 401(k) account ending in 32077, subject to passive gains and losses, to effectuate the equitable division of the marital assets. Defendant's portion of this account shall be transferred by Qualified Domestic Relations Order, ("QDRO") so that the act of transfer does not create an immediate taxable event for either party. Both parties agree that attorney Linda Hayes shall prepare the QDRO and that the Defendant shall supply the order, and pay any costs and fees, including attorney fees, associated with the QDRO. Any administrative fee charged by the holder of the account will be paid in equal shares by the Plaintiff and Defendant. Plaintiff agrees to cooperate with signing any documents

necessary to effectuate this provision, and Plaintiff shall provide access to any documents necessary to effectuate the intent of this paragraph. Except as otherwise set forth herein, Plaintiff shall retain the benefit of any remaining funds in the Plaintiff's Fidelity 401(k) account. The Defendant shall retain the benefit of any funds remaining in his retirement account.

32. ***Plaintiff's TRPC 401(k) Account.*** Plaintiff shall retain the use and benefit of the TRPC 401(k) account, which has an approximate marital balance as of the date of filing on October 19, 2018, of Six Thousand Six Hundred Eighteen Dollars and 00/100 ($6,618.00). The Defendant shall waive any right, title, or interest in this account or in any of the funds in the Plaintiff's TRPC 401(k) account.

33. ***Student loans.*** Defendant is to responsible for any student loan debt in his name.

34. ***Judgments.*** Neither party has current judgments against them.

35. ***Debt.*** Upon the execution of this Agreement, each party shall return to the other all credit cards and other indicia of credit in the name of the other, and shall make no further charges thereon. All accounts of a joint and several nature shall be closed, so as to not impair the credit of the other. The parties agree they shall not make any further charges for services, property or any other matter in the name of the other or against the account of the other. It is acknowledged and agreed that both parties have certain amounts of indebtedness in his or her individual name and that each party shall be solely responsible for any debt listed in his or her individual name unless expressly stated otherwise herein. With regard to any debt held in the name of the Plaintiff, the Plaintiff agrees to be solely responsible and to indemnify the Defendant and hold him harmless for any debt in her individual name. With regard to any debt held in the name of the Defendant, the Defendant agrees to be solely responsible and to indemnify the Plaintiff and hold her harmless for any debt in his individual name.

36. ***Plaintiff's Credit Card Debt.*** Plaintiff agrees to be responsible for the following credit card debts:

a. CitiMaster Card ending in 3283;

b. Discover Card ending in 2265;

c. Capital One Visa Card ending in 2510;

d. Delta Skymiles Card ending in 1005;

e. CitiCard ending in 4765; and

f. Plaintiff will remove Defendant as a user on the credit cards listed in this paragraph, and hold Plaintiff will indemnify and hold Defendant harmless for the debt associated therewith.

37. ***Defendant's Credit Card Debt.*** Defendant agrees to be responsible for the following credit card debts:

a. American Express Card ending in 1014; and

b. Delta Skymiles Card ending in 5007.

c. Defendant will remove Plaintiff as a user on the credit cards listed in this paragraph, and Defendant will indemnify and hold Plaintiff harmless for the debt associated therewith.

38. ***Medical Debt.*** Plaintiff agrees to be responsible for any past or future medical expenses she has incurred or will incur. Defendant agrees to be responsible for any past or future medical expenses he has incurred or will incur.

39. ***Health Insurance.*** The parties agree that each will maintain their own medical, dental, vision, and prescription insurance coverage.

40. ***Beneficiary Interests.*** Both parties shall each have the right to change any beneficiary designation they may have on any life or other insurance policy, or any financial, savings, retirement or investment account, except as otherwise set forth herein.

41. ***Keys, combination codes, documents and passwords.*** The parties shall each turn over to the other any and all keys, combination codes, documents and passwords each will need for the vehicles, properties, and services each shall keep per the division of the forgoing set forth in this Agreement.

42. ***Jurisdiction for Enforcement of Equitable Apportionment.*** The Family Court shall maintain continuing jurisdiction to issue any orders necessary to fully implement and effectuate the equitable

apportionment of marital property. Each party shall cooperate with the other concerning the transfer of title ownership of any asset or debt they receive and/or for which they are responsible. Furthermore, each party shall be responsible for the timely payment of all fees, costs, and expenses related to any asset or debt they receive and/or for which they are responsible. If it is subsequently discovered that either party owned any asset on the date of filing of this action not disclosed in this matter, or that either incurred debt that was not disclosed, this Court reserves and retains jurisdiction to apportion such asset(s) and debt(s) between the parties and to award either party attorney's fees and costs in any proceeding for the apportionment of such asset(s) or debt(s).

ALIMONY

43. ***Alimony.*** Plaintiff and Defendant waive any and all rights and/or claims to alimony and/or support and maintenance against the other, both now and in the future. Both parties expressly acknowledge and agree that they are freely, voluntarily, and knowingly, forever waiving any and all rights to alimony from the other and that this provision is non-modifiable by the parties and the family courts.

44. ***Taxes.*** The parties shall file separate income taxes for the year 2019 and all subsequent years. Defendant and Plaintiff represent and warrant that all information supplied for all tax returns during the marriage are, in all respects, true, correct and complete and fully and accurately reflect income and deduction for those years.

OTHER PROVISIONS

45. ***Modifications.*** It is the intent of the parties hereto that the provisions of this Agreement shall govern all rights and obligations of the parties, as well as rights of modification. No modification or waiver of any breach by either party of the terms and conditions of this Agreement shall be binding upon either of the parties unless reduced to writing and subscribed to by both of the parties. Both parties agree that any future modifications shall be based on the Court's ability to modify subject to South Carolina law.

46. ***Applicable Law.*** This Agreement shall be construed and interpreted in accordance with the laws of the State of South Carolina. Jurisdiction and venue for approval of this Agreement shall be in the Family Court of the Thirteenth Judicial Circuit, Greenville County, State of South Carolina.

47. ***Enforcement.*** Once approved and made the order of the Family Court for the Thirteenth Judicial Circuit in Greenville County, State of South Carolina, it shall have continuing and exclusive jurisdiction to enforce the terms and conditions of this Agreement, along with any order issued with respect thereto, and all of the parties shall be subject to contempt powers and jurisdiction of the Family Court for the Thirteenth Judicial Circuit in Greenville County, State of South Carolina with respect to any willful violation or breach of this Agreement or the order of this Court.

48. ***Entire Agreement.*** All parties hereby acknowledge and agree that this is a full and complete Agreement with respect to all matters raised or those, which could have been raised in the controversy between them. This Agreement shall be binding on the parties hereto, their heirs, executors, administrators and assigns, and it is the whole and only Agreement between the parties.

49. ***Reconciliation.*** That both parties agree there is no possibility of reconciliation.

50. ***Attorney's Fees and Costs.*** Both parties shall be responsible for their own attorney's fees and costs.

51. ***Guardian ad Litem Fees.*** Both parties agree to split the Guardian *ad Litem* fees on the same pro rata split as the uncovered medical expenses and costs.

52. ***Waiver of Elective Share and Estate Rights.*** Except for obligations created by this Agreement, each party forever waives and releases any claim he or she may have against the estate of the other party. Each party waives any and all right of election which he or she may have as a surviving spouse of the other, to take any part of the party's estate, against the contrary terms of the other party's Will or of the other party's estate planning devices as presently existing or hereafter adopted or amended under the law of any state whatsoever, now existing or hereafter arising.

53. ***Good Faith.*** That this action is brought in good faith and there has been neither fraud nor collusion between the parties.

MISCELLANEOUS

We are the parties in this action. We understand that we have the right to appear in Court before a Family Court Judge either to resolve the issues if not previously settled or to answer any questions we might have without the Agreement set forth in the attached Order. We waive this right and desire that this Agreement be approved without the necessity of a Court appearance.

We fully understand the terms and ramifications of the Agreement, and we consider the Agreement to be fair and reasonable under the circumstances of this case and in the best interest of our Minor Child.

{SIGNATURE PAGES TO FOLLOW}

I, **Sarah Huet de Guerville**, have read this Memorandum of Agreement in its' entirety and, fully understand its' contents, and do freely and voluntarily sign it this 21st day of January, 2020.

Sarah Huet de Guerville
Sarah Huet de Guerville

Witness

Jennifer Delguest
Witness

State of South Carolina)
)
County of Greenville)

PROBATE

PERSONALLY APPEARED BEFORE ME the undersigned witness and made oath that (s)he saw **Sarah Huet de Guerville**, sign, seal, and, as her/his act and deed, deliver the within-written Memorandum of Agreement, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN before me this the 21st day of January, 2020

Notary Public for South Carolina
My Commission expires: April 28, 2022

Jennifer Delguest
Witness

JESSICA F. DILLARD
NOTARY
PUBLIC
SOUTH CAROLINA

My Commission Expires
April 28, 2022

I, **Brice Huet de Guerville**, have read this Memorandum of Agreement in its' entirety and, fully understand its' contents, and do freely and voluntarily sign it this 17th day of January, 2020.

Brice Huet de Guerville

Shelley Brewer
Witness

Rhonda Morris
Witness

State of South Carolina)
)
County of Greenville)

PROBATE

PERSONALLY APPEARED BEFORE ME the undersigned witness and made oath that (s)he saw **Brice Huet de Guerville**, sign, seal, and, as her/his act and deed, deliver the within-written Memorandum of Agreement, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN before me this the 17 day of January, 2020

Notary Public for South Carolina
My Commission expires: 8-29-23

Shelley Brewer
Witness

Linda C. Hayes, Attorney
for Defendant

EXHIBIT A

CHILD PLACEMENT AND PARENTING PLAN

(W. Marsh Robertson, Family Court Judge)

The child placement schedule and parenting provisions outlined below (the "Plan") shall be legally binding on the parties unless and until modified by subsequent court order. The terms of this Plan are fully incorporated into the Court Order to which this Plan is attached, and shall be enforceable as to both parents through the contempt powers of the Family Court.

I. CHILD PLACEMENT SCHEDULE

This section sets forth the court-ordered child placement to which the noncustodial/secondary custodial parent ("visiting parent") shall be entitled to exercise at a minimum. The visiting parent and the primary custodial parent ("custodial parent") are free to supplement or deviate from this schedule at any time by mutual consent or agreement. The terms of this section shall therefore be construed as the "default" visitation schedule where no agreement to the contrary exists. Summer Placement and Holiday Placement shall supersede and take precedence over Weekend Placement and Midweek Placement where conflicts arise.

A. **Weekend Placement:** The visiting parent shall have child placement on alternating weekends ("visitation weekends") from 6:00 PM Friday until 6:00 PM Sunday. During the school year, visitation weekends will be extended where applicable by 24 hours to include any Friday or Monday school holiday.

B. **Weekday Placement:** The visiting parent shall have midweek child placement from 5:30 PM until 8:30 PM as follows: (1) each Thursday immediately following a visitation weekend; and (2) each Tuesday immediately following a non-visitation weekend.

C. **Summer Placement:** The visiting parent shall have child placement for four full weeks each summer, to include one week in June, two weeks in July, and one week in August. The visiting parent shall notify the custodial parent by no later than April 15 each year of the selected summer placement weeks. The visiting parent may not in consecutive years select a week that includes Independence Day or a child's birthday.

D. **Holiday Placement**

1. **Christmas:** The visiting parent shall have child placement for one full week during the Christmas school vacation ("Christmas visitation week"). On odd-numbered years, the Christmas visitation week will begin at 2:00 PM Christmas Day. On even-numbered years the Christmas visitation week will end at 2:00 PM Christmas Day. The Christmas school vacation shall be as defined by the school that the child/children attend; or if the child/children do not yet attend school, then by the public school district of the child/children's residence.

2. **Thanksgiving:** The visiting parent shall have child placement on odd-numbered years for the extended Thanksgiving weekend from 6:00 PM Wednesday until 6 PM Sunday. The custodial parent shall have this placement on even-numbered years.

3. **Easter Weekend / Spring Break:** The visiting parent shall have child placement on even-numbered years for the entire Spring Break vacation and the weekend that includes Easter Sunday, from 6:00 PM on the day school lets out until 6:00 PM on the day prior to school recommencing. The custodial parent shall have this placement on odd-numbered years. Spring Break vacation shall be as defined by the school that the child/children attend; or if the child/children do not yet attend school, then by the public school district of the child/children's residence.

4. **Mother's Day / Father's Day / Parent Birthdays:** If the child/children are scheduled to be with the other parent, child placement shall nevertheless be with the mother on Mother's Day and with the father on Father's Day from 9:00 AM to 9:00 PM; and with the mother on her birthday and the father on his birthday from 5:30 PM to 8:30 PM.

II. PARENTING DUTIES, RIGHTS AND RESTRICTIONS

A. **Placement Exchanges:** Absent other arrangements mutually agreed upon by the parents, the visiting parent will pick the child/children up from the home of the custodial parent at the beginning of scheduled visitation, and the custodial parent will pick the child/children up from the home of the visiting parent at the end of scheduled visitation. Both parents will have a duty to ensure that the child/children are available at their respective homes for timely exchanges.

B. **Notice of Unavailability:** The visiting parent shall provide reasonable advance notice to the custodial parent of his or her intention for any reason not to exercise any placement rights available under this schedule.

C. **Telephone Access:** Each parent shall have reasonable, private access to the child/children by telephone while physical child placement is with the other parent.

D. **Access to Records and Activities:** Each parent, whether the custodial or noncustodial parent, has equal access and the same right to obtain all educational records and medical records of their minor children and the right to participate in their children's school activities.

E. **Restraining Order:** While exercising physical child custody or placement, the parents shall be mutually restrained from willfully or negligently (a) engaging in any illegal conduct or activity; (b) subjecting or exposing the child/children to any acts of abuse or neglect; (c) engaging in conduct that endangers the physical or emotional wellbeing of the child/children; and (d) violating any additional restraining orders that may be specified in the court order to which this Plan is attached.

EXHIBIT 2

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	Case No.: 2021-DR-23-0394
Sarah Huet de Guerville,	)	Cross Ref. No.: 2018-DR-23-4502
Plaintiff,	)	**TEMPORARY ORDER**
v.	)	
Brice Huet de Guerville,	)	
Defendant.	)	

FILED CLERK OF COURT
GREENVILLE, S.C.
2021 APR 12 P 2:40
FAMILY COURT

COPY

DATE OF HEARING: March 11, 2021– via Webex
TRIAL JUDGE: The Honorable Karen S. Roper
PLAINTIFF'S ATTORNEY: Angela E. Frazier, Esq.
DEFENDANT'S ATTORNEY: Milford (Chip) O. Howard, III
COURT REPORTER: Margaret Woods

This matter came before the Court for a hearing on Plaintiff, Sarah Huet de Guerville's, ("Plaintiff"), Notice of Motion and Motion for Temporary Relief. Plaintiff filed a Summons and Verified Complaint, along with a Notice of Motion and Motion for Temporary Relief, requesting a modification of visitation and relocation, and other related relief from Defendant, Brice Huet de Guerville, ("Defendant"), on February 1, 2021. Defendant's attorney, Milford (Chip) O. Howard, III, accepted service of the filed Summons, Verified Complaint, Notice of Motion and Motion for Temporary Relief, and Notice of Virtual Courtroom Hearing, on February 23, 2021. The Acceptance of Service was filed on February 23, 2021. Defendant filed an Answer, Counterclaim, and Return to Motion on March 9, 2020.

The temporary hearing was conducted by Webex, pursuant to the April 3, 2020, Order of the Supreme Court of South Carolina regarding Operating of the Trial Courts during Coronavirus Emergency (Apellate Case No. 2020-000447). Present for the temporary hearing were Plaintiff, Plaintiff's attorney, Angela E. Frazier, Defendant, and Defendant's attorney Milford (Chip) O. Howard, III.

KSR

Based upon the pleadings, affidavits, exhibits, representations of counsel, and the laws of this State, the Court finds the following as to the temporary relief sought by the parties, which shall be without prejudice to either party at any contested future hearing in this matter.

The Court finds the following on a temporary basis:

1. ***Jurisdiction.*** Plaintiff is a citizen and resident of the County of Greenville, State of South Carolina. Defendant is a citizen and resident of the State of South Carolina, in the County of Greenville, but has been working in the State of Kansas for the last year or more.

2. ***Jurisdiction.*** Both parties agree that South Carolina is currently the home of the Minor Child. The parties were previously before the Court pursuant to a Separate Support and Maintenance action for which the parties agreed to amend the pleadings to include a request for a divorce on the statutory ground of (1) year continuous separation. A Final Order for Divorce was dated and filed on February 20, 2020, pursuant to case number 2018-DR-23-4502, ("Final Order"). This Court has continuing personal and subject matter jurisdiction.

3. ***Children.*** That of the party's marriage, one (1) child was born, to wit: A.H., ("Minor Child").

4. ***Relocation.*** Based on the existing case law in South Carolina pursuant to Latimer v. Farmer, 360 S.C. 375, 380, 602 S.E.2d 32, 34 (2004). Relocation is usually approved in consideration of what is in the best interest of the child. Pursuant to the Final Order, Plaintiff gave Defendant proper notice of her intention to relocate. Plaintiff's move seems not only to be because she is getting married, but also because she will have a number of family members closer to her and the Minor Child. It may be the intention of the Defendant to eventually return to Greenville, South Carolina, but Defendant is living and working in Kansas. Plaintiff's relocation actually moves the Minor Child closer to the Defendant. I find that Plaintiff shall be allowed to relocate to

KSR

the State of Tennessee with the Minor Child after the Minor Child is released from school for the summer.

5. ***Visitation.*** I find that Defendant's visitation with the Minor Child shall remain as set forth in the Final Order until Plaintiff moves with the Minor Child when he is released from school for the summer. Once the Plaintiff's move occurs, Defendant's visitation with the Minor Child shall remain pursuant to the Final Order, but modified as follows:

a. If the parties cannot agree on a flight, the exchanges shall occur at the halfway point between the party's residences rather than Greenville, South Carolina. The half way point is Bloomsdale City, which is located Ste. Genevieve County, Missouri, ("halfway point");

b. If Defendant is flying, then the parties shall split the cost equally. If either party cannot afford the flight, then the parties are to meet at the halfway point between the party's residences; and

c. Defendant is permitted to have visitation with the Minor Child on the weekends on which he does not have visitation with his other child.

6. ***Child Support.*** I find that child support may be addressed at a future hearing or upon motion.

7. ***Guardian ad Litem.*** I find that Megan Goodwin Burke, ("Guardian *ad Litem*"), shall be appointed by supplemental order as the Guardian *ad Litem*. The initial retainer shall be in the amount of $1,000.00. Each party shall be responsible for paying $500.00, within ten (10) days from the date this Order is filed with the Court. The initial fee cap shall be in the amount of $5,000.00, and the Guardian *ad* Litem may charge an hourly rate of $200.00 per hour. Any

KSL

Guardian *ad Litem* fees will be equally split between the parties subject to reallocation on a final basis.

8. ***Second Temporary Hearing.*** Once the Guardian *ad Litem* has made her initial investigation within sixty (60) days, then either party or the Guardian *ad Litem* may request a second temporary hearing.

9. ***Abeyance.*** I find that any issue not addressed herein shall be held in abeyance.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Based upon the pleadings, affidavits, exhibits, representations of counsel, and the laws of this State, this Court finds the following as to the temporary relief sought by the parties, which shall be without prejudice to either party at any contested future hearing in this matter;

2. The issues not addressed herein are held in abeyance for future hearing; and

3. This Order is temporary and is without prejudice to any party at a future hearing in this matter.

IT IS SO ORDERED.

S/ Karen S. Roper
The Honorable Karen S. Roper
Family Court Judge

April 5, 2021
Greenville, South Carolina

EXHIBIT 3

COPY

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	Case No.: 2021-DR-23-0394
Sarah Huet de Guerville,	)	Cross Ref. No.: 2018-DR-23-4502
	)	
Plaintiff,	)	**ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER ALTER, OR AMEND**
v.	)	
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	

FILED CLERK OF COURT GREENVILLE, S.C.
2021 JUN 23 A 10:57
FAMILY COURT

DATE OF HEARING: May 5, 2021– via Webex
TRIAL JUDGE: The Honorable Karen S. Roper
PLAINTIFF'S ATTORNEY: Angela E. Frazier, Esq.
DEFENDANT'S ATTORNEY: Milford (Chip) O. Howard, III, Esq.
COURT REPORTER: Maggie Woods ICR

This matter came before the Court for a hearing on Defendant, Brice Huet de Guerville's, ("Defendant"), Motion to Reconsider, Alter, or Amend. Plaintiff filed a Summons and Verified Complaint, along with a Notice of Motion and Motion for Temporary Relief, requesting a modification of visitation and relocation, and other related relief from Defendant, Brice Huet de Guerville, ("Defendant"), on February 1, 2021. Defendant's attorney, Milford (Chip) O. Howard, III, accepted service of the filed Summons, Verified Complaint, Notice of Motion and Motion for Temporary Relief, and Notice of Virtual Courtroom Hearing, on February 23, 2021. The Acceptance of Service was filed on February 23, 2021. Defendant filed an Answer, Counterclaim, and Return to Motion on March 9, 2020. Plaintiff filed a Reply on March 18, 2021. A temporary hearing was held on March 11, 2021, resulting in a Temporary Order that was signed by the Honorable Karen S. Roper on April 5, 2021, and filed on April 12, 2021. Defendant filed a Motion to Reconsider, Alter, or Amend on or about April 19, 2021. Plaintiff filed a Response to Defendant's Motion to Reconsider, Alter, or Amend on May 5, 2021.

The hearing was conducted by Webex, pursuant to the April 3, 2020, Order of the Supreme Court of South Carolina regarding Operating of the Trial Courts during Coronavirus Emergency (Apellate Case No. 2020-000447), as amended. Present for Defendant's Motion to Reconsider, Alter, or Amend were Plaintiff's attorney, Angela E. Frazier, Defendant, and Defendant's attorney Milford (Chip) O. Howard, III.

Based upon the pleadings, representations of counsel, and the laws of this State, the Court finds the following as to the Defendant's Motion to Reconsider, Alter, or Amend.

The Court finds the following:

1. ***Children.*** That of the party's marriage, one (1) child was born, to wit: A.H., ("Minor Child").

2. ***Reconsideration.*** I find that all issues in Defendant's Motion to Reconsider, Alter, or Amend were previously addressed in the Temporary Order filed on April 12, 2021, and after a further review of Latimer v. Farmer, 360 S.C. 375, 380, 602 S.E.2d 32, 34 (2004), relocation is generally approved in consideration of what is in the best interest of the child. In addition, there is no significant change in circumstances that has occurred to warrant any change in the decision made in Temporary Order filed on April 12, 2021. Furthermore, a Motion to Reconsider is limited to Final Orders and not Temporary Orders.

3. ***Pick Up and Drop Off Location.*** I find that if Defendant ~~has in fact~~ does moved KSR back to Greenville County, State of South Carolina, the halfway point shall be halfway between the parties' residences. In addition, I find that the parties shall have the discretion to agree to a different location to exchange the Minor Child if they do so wish, so long as the agreement is confirmed in writing by both parties.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Based upon the pleadings, representations of counsel, and the laws of this State, this Court denies the Defendant's Motion to Reconsider, Alter, or Amend; and

2. That the pick up and drop off location shall be the ~~hallway~~ halfway point between the parties' residences or otherwise agreed upon in writing by the parties. ICSR

IT IS SO ORDERED.

s/ Karen S. Roper
The Honorable Karen S. Roper
Family Court Judge

June 15, 2021
~~Greenville,~~ South Carolina
pickens

HOWARD
LAW FIRM, P.A.

MILFORD O. HOWARD III
howardfirmsc.com howardlawgville@gmail.com

OF COUNSEL: THOMAS C. BRISSEY

June 1, 2021

VIA E-MAIL ONLY

Ms. Angela Frazier
Attorney at Law
601 E. McBee Avenue, Suite 107
Greenville, SC 29601

Re: Sarah Huet de Guerville v. Brice Huet de Guerville
C. A. No.: 2021-DR-23-394

Dear Angela:

I reviewed your proposed Order and compared it with my notes from the hearing held on May 5, 2021.

I specifically disagree with the language in paragraph three (3), which I believe should be worded as follows:

"I find that Defendant has moved back to Greenville County, South Carolina from the time of the previous temporary hearing until the time this Motion to Reconsider was held. Therefore, the previously ordered exchange point between their residences in Kansas and Tennessee is not viable. The parties shall exchange the minor child in Greenville at the appropriate time per the original custody order unless agreed upon otherwise."

This is mine and my client's recollection of the specific wording used by Judge Roper. Please change this wording and then submit the Order to Judge Roper. If you are not in agreement, please forward this letter to Judge Roper with my requested changes.

With kind regards, I remain,

Sincerely yours,
HOWARD LAW FIRM, P.A.

Milford O. Howard, III
Attorney at Law

/moh

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MEGAN GOODWIN BURKE

Attorney At Law

217 E. Park Avenue
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864-270-9582

VIA ELECTRONIC MAIL

June 3, 2021

Angela Frazier
601 E. McBee Ave, Suite 107
Greenville, SC 29601
afrazier@elliottfrazierlaw.com

Milford O. Howard, III
P.O. Box 9754
Greenville, SC 29604
howardlawgville@gmail.com

Re: ***Sarah Huet de Guerville v. Brice Huet de Guerville***
Case No.: 2021-DR-23-0394

Dear Angela and Chip,

I hope this letter finds you well. I wanted to reach out to the both of you concerning the travel for visitation. In evaluating my notes following the Motion for Reconsideration, I discovered that what I had written was, "Judge Roper said she wasn't changing anything from her Temp Ruling, but recognized that the exchange information now didn't make sense. She said that if the parties can't agree to use the order, but she wasn't making an official change."

As you both are aware, the current Temporary Order states:

"Once the Plaintiff's move occurs, Defendant's visitation with the Minor Child shall remain pursuant to the Final Order, but modified as follows:

a. If the parties cannot agree on a flight, the exchanges shall occur at the halfway point between the parties residences rather than Greenville, SC. The halfway point is Bloomsdale, City which is located Ste. Genevieve County, Missouri, ("halfway point")"

The Final Divorce Decree, conversely, states that the exchanges shall take place in Greenville.

I am unsure if when she stated to "use the Order" if Judge Roper was referencing the Temporary Order or the Final Order from the previous case. Clearly, they are different as one states that exchanges will take place in Greenville and one states that they will take place at a midway point, identified as Bloomsdale, Missouri.

Given the circumstances, I would have thought that she meant to invoke the halfway point. I do believe that is equitable. While the summer is less stressful as the minor child is out of school, I am concerned that once the school starts the minor child would need to be excused early from school on Fridays and would return Sunday nights very late. I don't think it is physically possible for the little one to be in school until the close of the day and get to Greenville by the 6 PM deadline.

I hope we can work out something that is physically possible for the little one and has a schedule we can all make work. Thank you for taking the time to read this and please let me know if you have any questions.

Best Regards

Megan Goodwin Burke

Megan Goodwin Burke
Attorney

EXHIBIT 4

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE FAMILY COURT
Sarah Huet de Guerville, PLAINTIFF, -vs- Brice Huet de Guerville, DEFENDANT.	**CONTEMPT COMPLAINT** 2018-DR-23-4502

FILED CLERK OF COURT
GREENVILLE, S.C.
2021 SEP 21 A 9:52
FAMILY COURT

The Defendant, complaining of the Plaintiff herein, would respectfully state and show unto the Court and allege the following:

1. The Plaintiff would show unto the Court that the Honorable Jessica A. Salvini issued a Final Order for Divorce in C.A. No.: 2018-DR-23-4502 in the above-referenced matter on February 20, 2020 and said Order was filed with this Court on February 20, 2020. ***Order is attached hereto.***

2. The Plaintiff would show unto the Court that the above-referenced Order in the attached Memorandum of Agreement incorporated therein and attached to the Order as Exhibit A on page five (5), paragraph ten (10) states the following in pertinent part:

"... Both parties shall be bound by the Parenting Duties, Rights and Restrictions found in Exhibit A."

The Parenting Duties, Rights and Restrictions found in Exhibit A state in paragraph II.C. as follows:

"Telephone Access: Each parent shall have reasonable, private access to the child/children by telephone while physical child placement is with the other parent."

3. The Defendant would show unto the Court that the Plaintiff has failed to comply with the terms of the above-referenced Order as she has recorded at least two (2) phone conversations between the Defendant and the minor child and further shared those conversations with the Guardian *ad Litem* in C.A. No.: 2021-DR-23-394. Therefore, the Plaintiff has violated the previous Order in that she has not allowed private access between the Defendant and the minor child via telephone.

4. The Defendant would show unto this Court that the Plaintiff's conduct is in wilful contempt of the above-referenced Order, and would ask that the Plaintiff be held in willful Contempt of Court due to her failure to abide by the Order issued by this Court, and that she should be sentenced to the Greenville County Detention Center.

5. The Defendant would show unto the Court that this action arose through no fault of his own but solely due to the conduct of the Plaintiff, and he would ask that the Plaintiff be required to pay his reasonable attorney fees, plus costs incurred for this action in the amount of $2,500.00.

WHEREFORE, the Plaintiff prays as follows:

1. That this Court issue it's Order and Rule to Show Cause directed to the Plaintiff to show cause if any, why she should not be held in contempt of Court for her failure to abide by the above-referenced Order as stated herein above and that she be sentenced to the Greenville County Detention Center for this contempt.

2. That the Plaintiff be required to pay the Defendant's reasonable attorney fees and costs incurred for this action in the amount of $2,500.00.

3. For any such other and further relief as to this Courts seems just and proper.

Respectfully Submitted,
HOWARD LAW FIRM, P.A.

Milford O. Howard, III
Post Office Box 9754
Greenville, South Carolina 29604
(864) 233-5672
ATTORNEY FOR DEFENDANT

Dated: September 15, 2021

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE FAMILY COURT
Sarah Huet de Guerville, PLAINTIFF, -vs- Brice Huet de Guerville, DEFENDANT.	**VERIFICATION** 2018-DR-23-4502

PERSONALLY appeared before me, Brice Huet de Guerville, who being first duly sworn, states under oath that he is the Plaintiff in the foregoing action, and that he has read the attached Contempt Complaint and she states that all of the allegations contained therein are true and correct to the best of his knowledge, and as to those, he believes them to be true.

Brice Huet de Guerville

Sworn To Before Me This
15 day of September, 2021.

Notary Public for South Carolina
My commission expires: 1/24/27

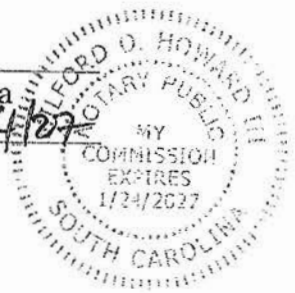


EXHIBIT 5

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
COUNTY OF GREENVILLE	)	Case No.: 2018-DR-23-4502
	)	Cross Ref. No: 2021-DR-23-0394
Sarah Huet de Guerville,	)	
	)	
Plaintiff,	)	
	)	**PLAINTIFF SARAH HUET DE GUERVILLE'S RETURN AND VERIFIED COUNTERCLAIMS TO DEFENDANT BRICE HUET DE GUERVILLE'S VERIFIED CONTEMPT COMPLAINT**
v.	)	
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	
	)	

CLERK OF COURT
GREENVILLE, S.C.
2021 NOV -4 P 1:40
FAMILY COURT

TO: DEFENDANT BRICE HUET DE GUERVILLE AND HIS COUNSEL MILFORD O. HOWARD, III, ESQ.:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff Sarah Huet de Guerville, ("Plaintiff"), herein, by way of Return and Verified Counterclaims to Defendant Brice Huet de Guerville's, ("Defendant"), Verified Contempt Complaint, Plaintiff will join with you, the Defendant, as soon thereafter as this matter may be appropriately scheduled and heard:

1. Plaintiff admits the allegations set forth and alleged in paragraphs 1 and 2 of the Defendant's Verified Contempt Complaint.

2. Plaintiff denies the allegations set forth and alleged in paragraphs 3, 4, and 5 of the Defendant's Verified Contempt Complaint, and demands strict proof thereof.

3. Each and every allegation in the Defendant's Verified Contempt Complaint not specifically admitted, modified, or explained is expressly denied.

4. Plaintiff seeks attorney's fees and costs associated with this action.

AS A FIRST DEFENSE
(Not Willful)

5. Plaintiff restates the preceding paragraphs to the extent consistent herewith as if fully set forth herein.

6. Plaintiff asserts that any violation of the Final Order for Divorce, dated and filed on February 20, 2020, pursuant to case number 2018-DR-23-4502, ("Final Order"), which is attached hereto and

incorporated herein by reference as "**Exhibit A**", was not willful because the recording of the phone call was not done with "bad purpose" either to disobey or disregard the law and was done in an effort to protect the Minor Child from the Defendant's own willful and intentional violations of the Final Order and the emotional wellbeing of the Minor Child.

AS A SECOND DEFENSE
(Unclean Hands)

7. Plaintiff restates the preceding paragraphs to the extent consistent herewith as if fully set forth herein.

8. The Plaintiff alleges that the Defendant's action is barred under the equitable doctrine of unclean hands to the extent that the Defendant was violating the Final Order by making disparaging comments about the mother to the Minor Child and discussing the litigation with the Minor Child as set forth in Paragraphs 12 and 13 of the Final Order and Paragraph 10 of the Final Order, which incorporates Judge W. Marsh Robertson's Child Placement Plan, and which provides in Paragraph II(E)(c) that the parties are restrained from "engaging in conduct that endangers the physical or emotional wellbeing of the child."

AS A THIRD DEFENSE
(Reasonable Private Telephone Access)

9. Plaintiff restates the preceding paragraphs to the extent consistent herewith as if fully set forth herein.

10. Plaintiff would also assert and allege that the Final Order only provides for reasonable private telephone access and "reasonable private access" does not include an allowance for the Defendant to violate the Final Order and intentionally inflict emotional harm and distress on the Minor Child by making disparaging and inappropriate comments about the mother and including the child in discussions regarding the present litigation. The intent of this paragraph assumes that the parent engaged in telephone conversations with the Minor Child is doing so in a reasonable and appropriate manner.

AS A FOURTH DEFENSE AND BY WAY OF
A FIRST VERIFIED COUNTERCLAIM AGAINST DEFENDANT
(Violation of Paragraph 12 of the Final Order dated February 20, 2020)

11. All prior allegations of the preceding paragraphs not inconsistent herewith are incorporated herein by reference.

12. Plaintiff is a citizen and resident of Hickman County, State of Tennessee.

13. Upon information and belief, Defendant claims he is a citizen and resident of Greenville County, State of South Carolina, but upon information and belief, was living in Johnson County, State of Kansas for one (1) year prior to the commencement of this action, before moving back to Greenville County, State of South Carolina, after the present litigation commenced.

14. The parties were previously before the Court pursuant to a Separate Support and Maintenance action for which the parties agreed to amend the pleadings to include a request for a divorce on the statutory ground of one (1) year continuous separation. A Final Order for Divorce was dated and filed on February 20, 2020, pursuant to case number 2018-DR-23-4502, ("Final Order"), which is attached hereto and incorporated herein by reference as "**Exhibit A**".

15. The parties were again before the Court pursuant to a modification action filed by the Plaintiff requesting that she be permitted to relocate to the State of Tennessee with the Minor Child and requesting a modification of the visitation schedule. A Temporary Order was dated and filed on April 12, 2021, pursuant to case number 2021-DR-23-0394, ("Temporary Order"), which is attached hereto and incorporated herein by reference as "**Exhibit B**".

16. The Defendant then filed Motion to Reconsider, and an Order Denying Defendant's Motion to Reconsider, Alter, or Amend, was dated and filed on June 23, 2021, ("Order Denying Reconsideration"), which is attached hereto and incorporated herein by reference as "**Exhibit C**", which provided that the pickup and drop off location would be the halfway point between the parties' residences.

17. The Plaintiff is informed and believes that this Court has continuing jurisdiction over the parties and the subject matter and venue is proper in Greenville County, State of South Carolina.

18. That of the previous marriage, one (1) child was born, to wit: A.H., ("Minor Child").

19. The matters raised in these Verified Counterclaims arise out of and seek compliance with the aforementioned Final Order and the Temporary Order.

20. The Defendant has willfully and intentionally refused to comply with the Final Order as set forth hereinbelow.

21. Paragraph 12 of the Final Order provides that "[b]oth parties shall be entitled to a "no adverse contact order", ("NACO"), that shall restrain and enjoin both Plaintiff and Defendant from engaging, directly or indirectly, in any adverse, hostile, argumentative, threatening, or unpleasant conduct, or any conduct beyond or worse than that described. This NACO shall allow the parties to contact, associate, and communicate with each other only so long as both parties consent to such conduct; however, either party may end any contact, association, or communication if he or she deems any contact, association, or communication as being adverse, hostile, or unpleasant. This NACO is not intended to trigger any elements of 18 U.S.C.A. §922(g)(9), nor is it intended to rise to the level of, or be considered as, an Order of Protection under South Carolina Protection from Domestic Abuse Act. Violation of this NACO shall subject the offending party to contempt of the Court."

Visitation

22. Upon information and belief, the Defendant directly violated Paragraph 12 of the Final Order, by engaging, directly or indirectly, in any adverse, hostile, argumentative, threatening, or unpleasant conduct, or inappropriate conduct towards the Plaintiff by refusing to cooperate with the visitation schedule.

23. At the time of the initial Temporary Hearing on March 11, 2021, the Defendant was still living in the State of Kansas, but then moved back to Greenville, South Carolina at some point after the initial Temporary Hearing.

24. The Temporary Order provided visitation to continue based on the Final Order, which was Judge W. Marsh Robertson's visitation schedule allowing for pickup and dropoff at 6:00 p.m. on Friday and 6:00 p.m. on Sunday.

25. The Defendant filed a Motion to Reconsider and an Order Denying Reconsideration was issued allowing for the parties to meet halfway between the parties' residences but making no other changes to the pick up and drop off times of 6:00 p.m.

26. Upon information and belief, the Plaintiff's location in Tennessee is about a 3½ hour drive to the halfway point and there is a time zone difference between Tennessee and South Carolina of one (1) hour because Tennessee is on the Central Time Zone.

27. The Minor Child is released from school at about 1:15 p.m. Central Time or about 2:15 p.m. Eastern Standard Time.

28. Upon information and belief, the Plaintiff must remove the Minor Child from school early every other Friday to make the drive to meet the Defendant and to comply with the Final Order, Temporary Order, and the Order Denying Reconsideration.

29. Upon information and belief, Plaintiff on numerous occasions has requested that Defendant agree to a later exchange time on Fridays to avoid the Minor Child being removed from school and missing critical classroom instruction; however, Defendant has used this issue to engage in adverse, hostile, argumentative, threatening, and unpleasant conduct towards the Plaintiff through text messages and over the telephone contact which negatively impacts the best interest of the Minor Child.

30. Upon information and belief, the Defendant has told the Plaintiff that if she is not present by 6:00 p.m., as required by the Final Order and Temporary Order that he will have her held in contempt even though the Defendant knows that doing so requires the early removal of the Minor Child from school.

31. Further, and upon additional information and belief, the Minor Child is within weeks of exhausting all available absences, which violates Tennessee absence laws.

32. Upon information and belief, the Defendant is using the Final Order and the Temporary Order and is refusing to cooperate in adjusting the exchange time to threaten and harass the Plaintiff at the expense of the Minor Child.

33. Upon information and belief, Defendant should be held in contempt for violating Paragraph 12, and this Court should modify the exchange time in the Final Order and Temporary Order in consideration of the Minor Child's best interest and educational development.

34. The Plaintiff is informed and believes she is entitled to an Order of this Court finding and holding the Defendant in willful and intentional violation of the Final Order with regard to Paragraph 12 by using the Final Order and Temporary Order to engage in adverse, hostile, argumentative, threatening, and unpleasant conduct as to the visitation schedule. Upon further information and belief, this Court should hold the Defendant in Contempt and provide such other relief this Court deems appropriate under the circumstances, including the modification of the pickup and drop time for visitation, and attorney's fees and costs.

Soccer Game Incident

35. Upon further information and belief, Defendant exposed the Plaintiff, Minor Child, multiple family members, and many onlookers to adverse, hostile, argumentative, threatening, and unpleasant conduct in violation of Paragraph 12 of the Final Order by verbally assaulting the Plaintiff and Minor Child at soccer practice on or about October 13, 2021.

36. Upon information and belief, the Defendant began yelling and screaming obscenities at the Plaintiff in front of the Minor Child, and accusing the Plaintiff in front of the Minor Child of kidnapping with other comments that the Defendant could not remember what grade he was in because the Plaintiff has "stolen him".

37. Upon information and belief, Plaintiff requested that the Defendant stop screaming at her and using profanity in front of the Minor Child, but Defendant refused.

38. The Plaintiff is informed and believes she is entitled to an Order of this Court finding and holding the Defendant in willful and intentional violation of Paragraph 12 of the Final Order and requiring Defendant to immediately comply with Paragraph 12 of the Final Order, and whatever other relief this Court deems appropriate under the circumstances, including attorney's fees and costs.

FOR A FIFTH CAUSE OF ACTION AND BY WAY OF A SECOND VERIFIED COUNTERCLAIM AGAINST DEFENDANT (Violation of Paragraph 5 of the Temporary Order, which incorporates the visitation schedule in Exhibit A of the Final Order in Paragraph I(a) of Judge W. Marsh Robertson's visitation schedule)

39. All prior allegations of the preceding paragraphs not inconsistent herewith are incorporated herein by reference.

40. The Defendant directly violated Paragraph 5 of the Temporary Order, attached hereto as **Exhibit B**, which incorporates the visitation schedule in Exhibit A of the Final Order in Paragraph I(a) of Judge W. Marsh Robertson's visitation schedule by failing to comply with the Temporary Order and Final Order.

41. The visitation schedule in the Final Order in Paragraph I(a), provides for exchanges to occur at 6:00 p.m. on Friday and then at 6:00 p.m. on Sunday. This visitation schedule was incorporated into the Temporary Order, attached as **Exhibit B**.

42. Upon information and belief, despite the Defendant's insistence and demand for the Plaintiff to exchange the Minor Child promptly at 6:00 p.m. or he will file for contempt, the Defendant on numerous occasions has been late for pick up and drop off on the following dates and times:

a. Sunday, July 18, 2021: 7:04 p.m.

b. Friday, August 20, 2021: 6:10 p.m.

c. Friday, September 3, 2021: 6:24 p.m.

d. Friday, September 17, 2021: 6:18 p.m.

e. Friday, October 1, 2021: 6:45 p.m.

f. Friday, October 29, 2021: 6:35 p.m.

43. The Plaintiff is informed and believes she is entitled to an Order of this Court finding and holding the Defendant in willful and intentional violation of Paragraph 5 of the Temporary Order, which incorporates the visitation schedule in Exhibit A of the Final Order in Paragraph I(a) of Judge W. Marsh Robertson's visitation schedule, and requiring Defendant to immediately comply with Paragraph 5 of the Temporary Order, which incorporates the visitation schedule in Exhibit A of the Final Order in Paragraph

I(a) of Judge W. Marsh Robertson's visitation schedule of the Final Order, and whatever other relief this Court deems appropriate under the circumstances, including attorney's fees and costs.

FOR A SIXTH CAUSE OF ACTION AND BY WAY OF A THIRD VERIFIED COUNTERCLAIM AGAINST DEFENDANT (Violation of Paragraph 13 of the Final Order dated February 20, 2020)

44. All prior allegations of the preceding paragraphs not inconsistent herewith are incorporated herein by reference.

45. Paragraph 13 of the Final Order provides that "[b]oth parties are restrained from making any disparaging comments about the other parent to the Minor Child, and neither party shall discuss the details of the litigation with the Minor Child or the order except to acknowledge that the order exists and must be followed, except if the Minor Child is in counseling or other psychological/psychiatric care and the Minor Child's provider believes is it in the Minor Child's therapeutic best interest to discuss the same.

46. Upon information and belief, Defendant directly violated Paragraph 13 of the Final Order, by making disparaging comments about the Plaintiff to the Minor Child and discussing the details of the litigation with the Minor Child.

47. Upon information and belief, Defendant has made disparaging comments about the Plaintiff to third parties with the Minor Child present, and to the Minor Child directly.

48. Upon information and belief, Defendant has on multiple occasions spoken to the Minor Child about the details of the litigation.

49. Upon information and belief, the Defendant is intentionally and willfully violating Paragraph 13 of the Final Order by making disparaging comments about the Plaintiff to the Minor Child, as well as speaking to the Minor Child about the details of the litigation.

50. Upon information and belief, the Defendant has failed to adhere to the provisions of Paragraph 13 of the Final Order.

51. The Plaintiff is informed and believes she is entitled to an Order of this Court finding and holding the Defendant in willful and intentional violation of Paragraph 13 of the Final Order and requiring

Defendant to immediately comply with Paragraph 13 of the Final Order, and whatever other relief this Court deems appropriate under the circumstances, including attorney's fees and costs.

FOR A SEVENTH CAUSE OF ACTION AND BY WAY OF A FOURTH VERIFIED COUNTERCLAIM AGAINST DEFENDANT (Violation of Paragraph II(C) of *Judge W. Marsh Robertson's Child Placement and Parenting Plan*)

52. All prior allegations of the preceding paragraphs not inconsistent herewith are incorporated herein by reference.

53. Paragraph 10 of the Memorandum of Agreement attached to the Final Order, provides that "[b]oth parties shall be bound by the Parenting Duties, Rights and Restrictions found in Exhibit A", which is *Judge W. Marsh Robertson's Child Placement and Parenting Plan.*

54. The Defendant directly violated Paragraph II(C) of *Judge W. Marsh Robertson's Child Placement and Parenting Plan*, which requires each parent to have "reasonable, private access to the Minor Child by telephone while physical child placement is with the other parent".

55. Upon information and belief, Defendant has on multiple occasions failed to allow the Plaintiff reasonable, private access by telephone with the Minor Child while in Defendant's physical placement.

56. Upon information and belief, Defendant took the Minor Child to Disney World the Summer of 2021, and Defendant refused to allow Plaintiff to have reasonable and private access to the Minor Child by telephone.

57. Upon information and belief, when the Minor Child is in the physical placement of the Defendant, and the Plaintiff calls to speak to the Minor Child, the Plaintiff can hear the Defendant in the background on the majority of the telephone calls with the Minor Child.

58. Upon information and belief, on one occasion Plaintiff called to speak to the Minor Child while the Minor Child was in the physical placement of the Defendant, and the Minor Child's soon to be step siblings wanted to speak to the Minor Child and let him know they missed him, and the Defendant took the telephone away from the Minor Child and informed the Plaintiff that the telephone calls are to only be directly with her.

59. Upon information and belief, if Defendant had provided Plaintiff with reasonable and private telephone access with the Minor Child, then Defendant would not have known that the Minor Child's soon to be step siblings had spoken to the Minor Child.

60. Upon information and belief, the Defendant is intentionally and willfully violating the Paragraph II(C) of *Judge W. Marsh Robertson's Child Placement and Parenting Plan*, which was incorporated in the Final Order, and has failed to adhere to the provisions in the Final Order by not allowing the Plaintiff to have reasonable and private telephone access to the Minor Child.

61. The Plaintiff is informed and believes she is entitled to an Order of this Court finding and holding the Defendant in willful and intentional violation of the Final Order and requiring Defendant to immediately comply with the Final Order, and whatever other relief this Court deems appropriate under the circumstances, including attorney's fees and costs.

FOR AN EIGHTH CAUSE OF ACTION AND BY WAY OF A FIFTH VERIFIED COUNTERCLAIM AGAINST DEFENDANT (Violation of Paragraph II(E)(c) of *Judge W. Marsh Robertson's Child Placement and Parenting Plan*)

62. All prior allegations of the preceding paragraphs not inconsistent herewith are incorporated herein by reference.

63. Paragraph 10 of the Memorandum of Agreement attached to the Final Order, provides that "[b]oth parties shall be bound by the Parenting Duties, Rights and Restrictions found in Exhibit A", which is *Judge W. Marsh Robertson's Child Placement and Parenting Plan.*

64. The Defendant directly violated Paragraph II(E)(c) of *Judge W. Marsh Robertson's Child Placement and Parenting Plan*, which states that the parents shall be mutually restrained from willfully or negligently "engaging in conduct that endangers the physical or emotional wellbeing of the child/children".

65. Upon information and belief, Defendant has endangered the emotional wellbeing of the Minor Child by continuously harassing, intimidating, yelling, belittling, and speaking down about the Plaintiff in front of the Minor Child.

66. Upon information and belief, the Defendant is refusing to cooperate regarding the visitation exchange time and forcing the Defendant to remove the Minor Child from school early to arrive by 6:00 p.m. on Friday's which is conduct that endangers the physical and emotion wellbeing of the Minor Child.

67. Upon further information and belief, the Defendant is making negative and disparaging remarks about the Plaintiff to the Minor Child, including, but not limited to comments about the Plaintiff has "kidnapped" and "stolen" the Minor Child, which comments have endangered the physical and emotional wellbeing of the Minor Child.

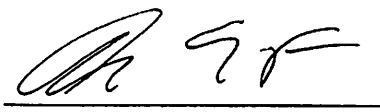
68. Upon information and belief, the Defendant is intentionally and willfully violating the Paragraph II(E)(c) of *Judge W. Marsh Robertson's Child Placement and Parenting Plan*, which was incorporated in the Final Order, and has failed to adhere to the provisions in the Final Order by endangering the emotional wellbeing of the Minor Child.

69. The Plaintiff is informed and believes she is entitled to an Order of this Court finding and holding the Defendant in willful and intentional violation of the Final Order and requiring Defendant to immediately comply with the Final Order, and whatever other relief this Court deems appropriate under the circumstances.

70. Based on Defendant's willful disregard of the Final Order, the Plaintiff has been compelled to bring this action to enforce the terms of the Final Order. Therefore, Plaintiff is informed and believes that the Defendant should be ordered to pay her attorney's fees and costs incurred in connection with this proceeding.

WHEREFORE, having fully replied to the Verified Contempt Complaint of Defendant, Plaintiff prays that this Court grant Plaintiff the relief sought in her Return and Verified Counterclaims filed in the above-captioned action; inquire into the matters set forth in the Verified Contempt Complaint; and award Plaintiff the relief requested by Plaintiff, as well as such other relief as this Court may deem just and proper.

ELLIOTT FRAZIER LAW FIRM, LLC



Angela E. Frazier (SC Bar #: 71099)
601 E. McBee Avenue, Suite 107
Greenville, South Carolina 29601
Phone: (864) 214-3621
Fax: (864) 729- 2203
Email: afrazier@elliottfrazierlaw.com

Attorney for Plaintiff

November 4, 2021
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	C.A. NO.: 2018-DR-23-4502
Sarah Huet de Guerville,	)	Cross Ref. No: 2021-DR-23-0394
	)	
Plaintiff,	)	VERIFICATION
v.	)	
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	

CLERK OF COURT
GREENVILLE, S.C.
2021 NOV -4 P 1:40
FAMILY COURT

PERSONALLY APPEARED before me, Sarah Huet de Guerville, ("Plaintiff"), who after being duly sworn, states that she is the Plaintiff in this action; that she has read the statements contained in the foregoing Summons and Verified Counterclaims, and the same are true and correct of her own knowledge, and as to those statements made upon information and belief, she believes them to be true.

Sarah Huet de Guerville

Sarah Huet de Guerville, Plaintiff

SWORN to before me this
3 day of November, 2021

Morgan Fisher

My Commission Expires: July 26 2025

My Commission Expires
July 26, 2025

MORGAN FISHER
STATE OF TENNESSEE NOTARY PUBLIC
WILLIAMSON COUNTY

EXHIBIT 6

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED CLERK OF COURT
GREENVILLE, SC
2021 OCT 31 A 11:17
FAMILY COURT

IN THE FAMILY COURT

Sarah Huet de Guerville,

Plaintiff,

-vs-

Brice Huet de Guerville,

Defendant.

NOTICE OF MOTION AND MOTION TO REMOVE THE GUARDIAN *AD LITEM* AND TRANSFER OF CUSTODY

C.A. No.: 2021-DR-23-394

TO THE PLAINTIFF ABOVE NAMED BY AND THROUGH HER ATTORNEY, ANGELA E. FRAZIER AND THE GUARDIAN *AD LITEM*, MEGAN BURKE:

Please take notice that the undersigned attorney for the Defendant will move before the Honorable Judge Conits of the Greenville County Family Court on the 5th day of January, 2022 at 4:30 P.M, or as soon thereafter as counsel may be heard for an Order addressing the following issues:

1. **Removal of the Guardian *ad Litem*.**
2. **Transfer of custody of the minor child to the Defendant based on the child's therapist recommendations; and**
3. **Attorney fees.**

The basis for the Motion of the Defendant is as follows:

1. The Guardian *ad Litem* was provided illegally obtained recordings by the Plaintiff of the minor child and the Defendant. Upon being provided this information, the Guardian *ad Litem* shared these recordings with the parties and further utilized the recordings in her Interim report issued in January 2022 despite a contempt action being filed concerning the same issue in September 2021.
2. The Defendant filed a contempt action on September 22, 2021 addressing the issues of Plaintiff's recording of conversations illegally. Even though this contempt action existed with illegally obtained recordings, the Guardian *ad Litem* still included those in her Interim report issued in January 2022.

3. The Guardian *ad Litem*, in her January 2022 report, failed to include the information in her report that the child's principal in Tennessee reported that the child leaving school on Fridays was not a concern for the school which was a direct position opposite of the Guardian.
4. The Guardian *ad Litem* prejudices the Defendant in that she relies heavily on his conversations with the minor child while utilizing illegally obtained information by the Plaintiff in her report.
5. The Defendant continued to inform the Guardian's office that the Plaintiff was illegally recording his conversations with the minor child. Despite this knowledge, the Guardian utilized the recordings, thereby influencing her report.
6. The Defendant has a current complaint pending as to the Guardian thereby prejudicing her opinion in this matter.
7. The Guardian failed to investigate the minor child's absence from school for exchanges being allowed by his school leaving the Defendant to investigate resulting in the child's school approving of such early dismissals for exchanges.
8. The Defendant and the Guardian have had a significant breakdown in communication.
9. The Guardian requested another PETH test of the Plaintiff but alerted her to allow her time to prepare in her report thereby negating the surprise to the Plaintiff and a possible failure of the test.
10. The minor child reported to his therapist concerns of the Plaintiff's husband continuing to hug him despite the child's assertions not to do so resulting in the child's desire to not live with the Plaintiff and her husband.
11. The Guardian, as having been involved in a prior action with this child, does not believe the sibling relationship to be as important as it was during the last action involving this child.
12. Based on the report of the minor child, the time spent alone with the Guardian and the child was inaccurately reported by the Guardian.

13. Based on the report of the minor child, he was only allowed to fully voice his concerns once his meeting with the Guardian was recorded.

Pursuant to Rule 11, Defendant's counsel has addressed this issue with opposing counsel and the Guardian *ad Litem*. The issue cannot be decided without the necessity of a hearing being held.

HOWARD LAW FIRM, P.A.

MILFORD O. HOWARD, III
Attorney for Defendant
P.O. Box 9754
Greenville, South Carolina 29604
Phone: (864) 233.5672
Fax: (864) 642-6822

October 20, 2022

EXHIBIT 7

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	Case No.: 2021-DR-23-0394
	)	Cross Ref. No.: 2018-DR-23-4502
Sarah Huet de Guerville,	)	
	)	**RETURN TO DEFENDANT'S MOTION**
Plaintiff,	)	**TO REMOVE THE GUARDIAN *AD LITEM***
v.	)	**AND TO TRANSFER CUSTODY**
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	

FILED CLERK OF COURT
GREENVILLE, SC
2023 JAN -4 P 4:33
FAMILY COURT

Plaintiff, Sarah Huet de Guerville, ("Mother"), by way of a Return to Defendant Brice Huet de Guerville's, ("Father"), Motion to Remove the Guardian *ad Litem* and to Transfer Custody would respectfully show unto this Honorable Court the following as set forth in this Return:

BACKGROUND AND PROCEDURAL HISTORY

This action to modify visitation and for Mother to relocate was filed on February 1, 2021.[1] A temporary hearing was held on March 11, 2021, via Webex with the Honorable Karen S. Roper, which resulted in a Temporary Order that was filed on April 12, 2021, granting the Mother's request to relocate to Tennessee, appointing attorney, Megan Goodwin Burke, as the Guardian *ad Litem* ("GAL"), and denying the Father's request to maintain the status quo. Mother and A.H., ("Minor Child"), moved to Tennessee in June of 2021, where they remain to this date.[2]

Father filed a Motion to Reconsider, Alter, or Amend the Court's ruling allowing Mother to move to Tennessee. A hearing on the matter was held on May 5, 2021, via Webex with the Honorable Karen S. Roper, which resulted in an Order Denying Defendant's Motion to Reconsider, Alter, or Amend, which was filed on June 23, 2021.

[1] A Final Order of Divorce and Order granting Mother primary custody was filed with the Court on February 20, 2020, case number 2018-DR-23-4502.

[2] Prior to the filing of the Final Order of Divorce until after the filing of this relocation action, Defendant had been living in Kansas City, MO.

Father filed a Rule to Show Cause against Mother on September 21, 2021, regarding various recordings. In response, Mother filed a Rule to Show Cause against Father and a Return to Father's Rule to Show Cause. Both Rules to Show Cause were continued by Agreement of both parties, see Consent Order of Continuance, filed November 18, 2021. The GAL filed her Interim Report on January 1, 2022. Given the complexity of the case, the Court issued an Order extending the 365 Day Benchmark on February 24, 2022. Father filed these Motions on or about October 20, 2022, and sent Mother a courtesy copy at the same time.

FATHER'S REQUEST TO TRANSFER CUSTODY IS IMPROPER

1. Father's request to transfer custody is improperly before this Court. It is improper because Father has not pled for such relief. As the South Carolina Court of Appeals ruled, "[d]ue process requires that litigants be placed on notice of issues which the court is to consider and the rule that family court pleadings are to be liberally construed *may not be stretched* so as to permit the judge to award relief not contemplated by the pleadings". See *Abbott v. Gore*, 304 S.C. 116, 403 S.E.2d 154 (Ct.App. 1991) and *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (Ct.App.1999)(emphasis added).

2. Further, Father alleges in his Counterclaim that no substantial change of circumstances exists in this matter.[3] Without any proof or facts alleging a significant change of circumstances, no Court may grant a parties' request to modify that which the Court has already ordered.

3. In addition, Father's Motion misleads this Court by stating as his header "Transfer of Custody of the Minor Child to the Defendant Based on the Minor Child's Therapist's Recommendation." In fact, the Minor Child's therapist, Brooke Pate, has provided a sworn affidavit that states, "I have not made recommendations on the custody of the minor child", which is attached hereto as "**Exhibit A**".

4. Thus, Mother is informed and believes that Father's request to transfer custody should be denied, and that she should be granted all legal fees and costs for falsely alleging that the Minor Child's therapist recommended this change.

---

[3] Father mentioned a change of circumstances in his Motion to Reconsider the Court's Temporary Order, but Father's change of circumstances only related to his move back to South Carolina. Father's Motion to Reconsider was denied.

FATHER'S MOTION TO RECUSE GAL IS IMPROPER, PREJUDICIAL TO THE COURT, MINOR CHILD AND MOTHER AND FATHER'S ACTIONS ARE HARMING THE BEST INTERESTS OF THE MINOR CHILD

5. Father alleges that the GAL relied upon and shared illegal recordings with the mediator. Father's allegations are improper. No Court, federal or state, has ruled that these recordings are illegal. Instead, this "ruling" that the recordings are illegal is simply Father's alleged position.

6. Father is interfering and obstructing the GAL's investigation of this matter. Specifically, the Minor Child's therapist, Brook Pate, requested both parties sign medical releases. Mother has signed a release, but Mother does not believe Father has signed.

7. Mother is informed and believes that Father and his attorney contacted the Minor Child's therapist and asked her not to speak to the GAL until a later date. A true copy of the e-mail from the therapist to the GAL is attached hereto and incorporated herein by reference as "**Exhibit B**".

8. Mother is further informed and believes that the GAL's investigation has been intentionally obstructed, interfered with, and impeded and made impossible for the GAL to report to the Court about the important facts necessary for the Court to rule on the issues pled by both parties in their pleadings.

9. In addition, the following facts further support Mother's request for this Court to deny Father's Motion to Recuse the GAL:

a. Both parties agreed to the appointment of Ms. Burke as the GAL because she previously served as the GAL in the parties' prior divorce and custody matter;

b. The parties agreed to Ms. Burke because she is very familiar with the facts and circumstances of this entire case. Most importantly, the Minor Child is comfortable with Ms. Burke and relates well to her;

c. Ms. Burke's removal would result in an unnecessary delay of the present litigation;

d. Despite Father's insistence that the recordings are illegal, if this Court decides to consider whether or not such recordings are proper or not, Mother requests the following:

i. For the Court to review the sworn Affidavit of her expert witness, Richard Whiting, regarding the circumstances and substance of the recorded

conversations between the minor child and Father. **(See Affidavit of Richard Whiting);**

ii. The Plaintiff has joint legal custody with primary placement of the child, such that she had the lawful ability to record the child and make decisions for the child. **See Exhibit C, Affidavit of Dick Whiting;**

iii. Plaintiff's actions were reasonably necessary to protect her child from harm as the Defendant would certainly not have admitted to his behavior, and the recordings were necessary for the Plaintiff's protection of the emotional and mental wellbeing of her child; and

iv. The Defendant's allegations, that the recordings were obtained illegally, appear motivated by the fact the recordings are hurtful to his case.

e. Mother is informed and believes these recordings evidence that Father is intentionally and wilfully violating this Court's Restraining Orders that are in place to protect the best interests of the Minor Child and that Father is intentionally and deliberately harming and manipulating the child to his detriment;

f. Mother's Rule to Show Cause against Father for these alleged wilful violations remains pending.

ATTORNEYS FEES, SANCTIONS, AND COSTS

10. Mother is informed and believes that Father has wilfully violated this Court's orders, interfered with the GAL's Court Ordered investigation and intentionally attempted to mislead this Court twice in his motions by falsely stating that (1) the Minor Child's therapist recommends a transfer of custody to him and (2) the recorded conversations are determined as illegal. Mother not only requests this Court award her legal fees and costs, but she also requests this Court provide sanctions for filing frivolous pleadings and making false statements to the Court in their Motion.[4]

[4] "Under Rule 11(a), SCRCP, a party and/or the party's attorney may be sanctioned for filing a frivolous pleading, motion, or other paper, *or for making frivolous arguments. Runyon v. Wright*, 322 S.C. 15, 471 S.E.2d 160 (1996).

WHEREFORE, Mother prays:

1. For an Order denying Father's Motion to remove the Guardian *ad Litem*;
2. For an Order denying Father's Motion to transfer custody of the Minor Child to himself;
3. For an Order requiring Father to pay all Mother's attorney's fees and costs related to the defense of this motion;
4. For sanctions; and
5. For such other and further relief, the Court may deem just and proper.

ELLIOTT FRAZIER LAW FIRM, LLC

Angela E. Frazier (SC Bar #: 71099)
601 E. McBee Avenue, Suite 107
Greenville, South Carolina 29601
Phone: (864) 214-3621
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Email: afrazier@elliottfrazierlaw.com

Attorney for Plaintiff

January 4, 2023
Greenville, South Carolina

The party and/or attorney may also be sanctioned for filing a pleading, motion, or other paper in bad faith whether or not there is good ground to support it. *Id.* The sanction may include an order to pay the reasonable costs and attorney fees incurred by the party or parties defending against the frivolous action or action brought in bad faith, a reasonable fine to be paid to the court, or a directive of a nonmonetary nature *designed to deter the party or the party's attorney from bringing any future frivolous action or action in bad faith. Id." Ex parte Gregory*, 378 S.C. 430, 437-38, 663 S.E.2d 46, 50 (2008)(emphasis added).

[4] *See Pool v. Pool*, 321 S.C. 84, 91, 467 S.E.2d 753, 758 (Ct. App. 1996) *aff'd as modified*, 329 S.C. 324, 494 S.E.2d 820 (1998)("When the family court finds that procurement, initiation, continuation, or defense of any marital litigation is frivolous, attorney's fees may be awarded pursuant to the South Carolina Frivolous Civil Proceedings Sanctions Act. *See* S.C.Code Ann. § 15-36-10 through -50 (Supp.1994).")

EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE THIRTEETH JUDICIAL CIRCUIT
	)	
COUNTY OF GREENVILLE	)	
	)	Case No.: 2021-DR-23-0394
Sarah Huet de Guerville,	)	Cross Ref.: 2018-DR-23-4502
	)	
Plaintiff,	)	**AFFIDAVIT OF Brooke Pate**
v.	)	
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	

FILED CLERK OF COURT GREENVILLE, SC
2023 JAN -4 P 4:33
FAMILY COURT

Personally appeared before me the undersigned, **Brooke Pate**, after being duly sworn, hereby states and affirms that:

1. I am competent to testify to the matters set for herein, and testify based on my personal knowledge, education, information, and belief.
2. I am a temporary licensed professional counselor in the state of Tennessee and national certified counselor. I received my Master of Arts degree in clinical mental health counseling from Trevecca Nazarene University in December 2021.
3. I have known Aiden Huet de Guerville since May 2022. I have provided services to him at Nurture House in Franklin, TN since May 2022.
4. I have not made recommendations on the custody of the minor child.

FURTHER AFFIANT SAYETH NOT.

Brooke Pate

Sworn before me this 6th day of Dec, 2022

Notary public for the State of Tennessee
My commission Expires: 4/22/26

JENNIFER B. SMITH
STATE OF TENNESSEE
NOTARY PUBLIC
COUNTY OF MAURY
MY COMM. EXP. APRIL 22, 2026

EXHIBIT B

Subject: Fwd: cancel appt
Date: Friday, December 16, 2022 at 11:42:46 AM Eastern Standard Time
From: Megan Goodwin Burke
To: Angela Frazier

--------- Forwarded message ---------
From: **Chip Howard** <howardlawgville@gmail.com>
Date: Wed, Dec 14, 2022 at 5:32 PM
Subject: Re: cancel appt
To: Megan Goodwin Burke <meg@upstategal.com>

That is my client's position at this time. Thank you.
Chip

On Wed, Dec 7, 2022 at 12:54 PM Megan Goodwin Burke <meg@upstategal.com> wrote:

> I received this from Aiden's therapist in response to trying to make a phone appointment to discuss the minor child and her recommendations. The custody and visitation portions of the motion before the court in January appears to be based at least in part on the therapist's recommendations. I cannot investigate the allegations of the motion without being allowed to speak to the therapist. I cannot complete my court ordered investigation if I am restricted from important witnesses.
>
> Please let me know if your position remains that I should be restricted from contact with the child's therapist prior to The Court's determination in January.
>
> --------- Forwarded message ---------
> From: **Sophie Kelly** <sophie@upstategal.com>
> Date: Mon, Nov 14, 2022 at 1:16 PM
> Subject: Fwd: cancel appt
> To: Megan Goodwin <meg@upstategal.com>
>
> --------- Forwarded message ---------
> From: **Sophie Kelly** <sophie@upstategal.com>
> Date: Mon, Nov 14, 2022 at 1:16 PM
> Subject: Re: cancel appt
> To: BrookePate <BrookePate@proton.me>
>
> Thank you Ms. Pate.
>
> Sophie
>
> On Mon, Nov 14, 2022 at 1:13 PM BrookePate <BrookePate@proton.me> wrote:
>
> > Sophie,
> >
> > I apologize, but I am going to have to cancel today's appointment. I have been asked by my client's

father and his attorney to wait to speak to Megan until a later date.

Brooke Pate, MA, NCC
(615) 830-9221

Sent with Proton Mail secure email.

--
Sincerely;

Sophie Kelly
Paralegal
For the Law Office of
Megan Goodwin Burke
864-233-4566 EXT. 120
Sophie@UpstateGAL.com
https://sites.google.com/g.clemson.edu/sophie-kelly-eportfolio

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Monday - Thursday 9 AM to 5 PM and Friday 9 AM to 12 PM

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--
Sincerely;

Sophie Kelly
Paralegal
For the Law Office of
Megan Goodwin Burke
864-233-4566 EXT. 120
Sophie@UpstateGAL.com
https://sites.google.com/g.clemson.edu/sophie-kelly-eportfolio

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Thanks,

Megan Goodwin Burke
864-233-4566
Meg@UpstateGAL.com

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"Have I not commanded you? Be strong and courageous. Do not be afraid; do not be discouraged, for the Lord your God will be with you wherever you go." - Joshua 1:9

"Train up a child in the way he should go and when he is old he will not depart from it." - Proverbs 22:6

Milford (Chip) O. Howard III
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Telephone: (864) 233-5672
Facsimile: (864) 642-6822
Website: howardfirmsc.com

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Thanks,

Megan Goodwin Burke
864-233-4566
Meg@UpstateGAL.com

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EXHIBIT C

FILED CLERK OF COURT
GREENVILLE, SC
2023 JAN -4 P 4:34
FAMILY COURT

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT
	)	OF THE
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
Sarah Huet de Guerville,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF
	)	RICHARD G. WHITING
versus	)	
	)	
Brice Huet de Guerville,	)	Civil Action No. 2021-DR-23-0394
	)	Cross Ref. No. 2018-DR-23-4502
Defendant.	)	
	)	

I graduated from Presbyterian College with a Bachelor of Science Degree in 1972. I received my Master of Business Administration in 1980 from Florida International University. I graduated from the University of South Carolina School of Law in 1982. Upon graduation from law school I was honored with acceptance into The Order of the Coif as well as being awarded the Order of the Wig and Robe. I am admitted to practice in all state and federal courts in the state of South Carolina and the Fourth Circuit Court of Appeals.

I have been involved in electronic communications privacy issues since early in my career, starting in 1983. I have argued numerous issues concerning both the federal and state statues in various South Carolina Family Courts, South Carolina Civil Courts, and in the Federal District Courts for South Carolina. I have also argued matters involving electronic communications before the Fourth Circuit Court of Appeals.

I have been honored to be selected to be a speaker at numerous Family Law seminars and at the South Carolina Bar Conventions, including being a speaker at the upcoming 2023 South Carolina Bar Convention. At this Convention I will be speaking about the Electronic Communications Privacy Act, the Stored Communications Act, and the Computer Fraud and Abuse Act and the corresponding state statutes. I have also been honored to be selected as a presenter to the New Judges' Orientation School.

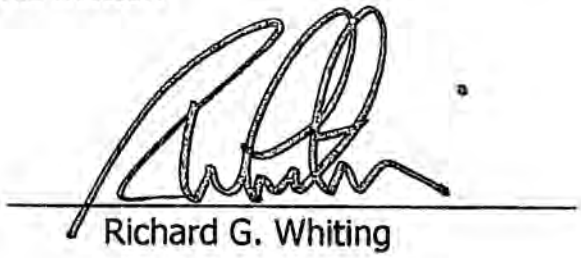
I have served as a guest lecturer at the South Carolina School of Law for presentations in Family Law classes concerning electronic communications privacy. I have been a presenter at the South Carolina Private Investigators Association seminar. I served as a presenter at the Missouri Bar Family Law Symposium concerning these same issues. I have been honored to be invited to speak at numerous Bench-Bar seminars, Continuing Legal Education seminars, Judicial Legal Education seminars, and at "Hot Tips for the Coolest Domestic Lawyers" seminars.

I have been published in the South Carolina Lawyer magazine concerning these electronic communication issues. I co-authored an article for the Law Office Management Committee "Hot Tips" concerning wiretapping, electronic surveillance and pictorial evidence.

I have been selected for induction into the American Academy of Matrimonial Lawyers and have also been a speaker at their annual convention concerning these same issues. I have held various offices with the Family Law Section Council of the South Carolina Bar including Past President of this Section. I have also served in the House of Delegates.

I believe that my qualifications and experience in arguing dozens of matters concerning electronic communications privacy issues justifies me being qualified as an expert testifying witness in this matter.

Respectfully submitted,



Richard G. Whiting

Sworn to and subscribed before me this
22 day of December, 2022

Keri L. Harmon
Notary Public for South Carolina
My commission expires 03/04/23

STATE OF SOUTH CAROLINA) IN THE FAMILY COURT
) OF THE
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

FILED CLERK OF COURT GREENVILLE, SC
2023 JAN -4 P 4: 3

FAMILY COURT

Sarah Huet de Guerville, Plaintiff, versus Brice Huet de Guerville, Defendant.	MEMORANDUM OF LAW Civil Action No. 2021-DR-23-0394 Cross Ref. No. 2018-DR-23-4502

Plaintiff, by and through the undersigned counsel, opposes the Motion filed by Defendant to remove the currently serving Guardian *ad Litem* and for a transfer of custody.

Defendant alleges that the Guardian *ad Litem* was provided "illegally obtained recordings by Plaintiff of the minor child and Defendant..." Defendant is incorrect and this Motion must fail based upon the law of this state and the federal law.

Plaintiff and Defendant are the parents of a minor child who is currently 8 years old. A Final Order of Divorce was filed on February 20, 2022, bearing Civil Action Number 2018-DR-23-4502. The Final Order of Divorce approved the parties' Agreement attached as a "Memorandum of Agreement for Sarah Huet de Guerville v. Brice Huet de Guerville." A copy is attached hereto at Exhibit "A". In that Agreement, the parties agreed to "joint legal custody of their Minor Child, with primary placement with Plaintiff. On all major parenting decisions, the parties will consult and use good

faith effort to resolve differences, but if the parties are unable to agree on the major parenting decision, Plaintiff will have the right to make the final decision."

As set out hereinbelow, the mother (Plaintiff) had the legal authority to vicariously consent to the recording of the child's conversation with Defendant/Father. The mother also had the moral obligation to determine what was taking place during these conversations.

The mother admits that she recorded three or perhaps four conversations between the child and the father. These conversations usually took place with the child being in a separate room in the residence that the child shared with his mother. (The Temporary Order calls for the child to have a private conversation with the parent currently no caring for the child.) At the conclusion of these conversations, the child appeared to the mother extremely upset, sometimes even crying, and in an emotional state telling his mother that he had to talk to her about the conversation that had just taken place between him and his father.

Upon the mother's recording of these conversations, and reviewing these conversations, the mother's fears were unfortunately confirmed. Not only was the father coaching the child about how to talk to the mother and how to talk to the Guardian *ad Litem*, but the father also continued to demean the mother during these conversations. The mother had hoped that this conduct was not continuing (as the conduct was previously taking place, even in public, where the father was demeaning and disrespectful to the mother, not only in front of the child but in front of other individuals, for example at a soccer field). The father has previously engaged in verbal

tirades towards the mother even though the minor child was standing literally next to the mother.

The South Carolina Supreme Court in the case of The State v. Samuel Whitner, 399 S.C. 547, 732 S.E.2d 861 (S.C. 2012) (attached hereto as Exhibit "B") addressed the issue as to whether the Wiretap Act intended to adopt vicarious consent doctrine allowing a parent the ability to consent on behalf of a child for recording and accessing certain communications between the child and others. In Whitner, the minor child was 11 years old. According to the child's testimony, when she was 5 or 6 years old the child's father exposed his penis to the minor child and forced her to perform oral sex on him on two (2) separate occasions. When the child was 11 years old, the child described the abuse to her mother. The mother encouraged the child to confront the father. The child telephoned the father to confront him, and the father denied the incidents. A conversation between the child and the father was subsequently recorded by the stepfather with the mother's consent. During the course of that subsequent conversation the father admitted the sexual abuse and stated the incident was a mistake that he deeply regretted. The father filed a motion to suppress the recorded conversation claiming the recording intercepted without the consent of either party violated the South Carolina Homeland Security Act which generally prohibits the interception of communications.

The Court of Appeals held a suppression hearing, taking testimony and allowing oral argument. Likewise, the mother testified indicating she believed the recording of the conversation between the child and the father was needed because she did not

know what the conversation between the child and the father entailed, the child crying often. The mother indicated she needed to determine if it was appropriate to permit the father to have continued contact with the child.

On the legal issue of "consent", the South Carolina Court of Appeals held that the legislature, in enacting the Wiretap Act, intended to adopt the vicarious consent doctrine. The mother could, therefore, lawfully vicariously consent to the recording on behalf of the child. The Court of Appeals found that the mother had a good faith and objectively reasonable basis for believing the recording was necessary and in the child's best interest and denied the father's Motion to Suppress.

In this case, the minor child (8 years old) was visibly and emotionally distressed following his telephone conversations with the father. As set out hereinabove, the mother was concerned as to what was transpiring during these telephone conversations between the parties' son and the father, particularly given the father's outrageous conduct towards the mother at various times and locations including one occasion where the father verbally attacked the mother at the child's soccer game while the child was present. The mother believes that she, like the mother in the Whitner, case had a good faith basis for not only listening to the inappropriate contents of these conversations but also sharing them with the court and with the Guardian *ad Litem*.

The leading federal case addressing this case is Pollock v. Pollock, 154 F.3d 601 (6th Cir. 1998). In that case, the Sixth Circuit Court of Appeals held that the mother did not violate federal acts when she recorded conversations between her daughter and the daughter's stepmother. "[A]s long as the guardian has a good faith, objectively

reasonable basis for believing that it is necessary and in the best interest of the child to consent on behalf of his or her minor child to the taping of telephone conversations, the guardian may vicariously consent on behalf of the child to the recording." See also Wagner v. Wagner, 64 F.Supp.2d 895, 896 (D. Minn. 1999) "holding a guardian may consent on behalf of a minor child to the interception of a communication", Campbell v. Price, 64 F.Supp.2d 1186, 1191 (E.D. Ark. 1998) "holding a parent's good faith concern for his minor child's best interest may empower the parent to legally intercept the child's conversations", and Thompson v. Dulaney, 838 F.Supp 1535, 1544 (D. Utah 1998) "finding the vicarious consent doctrine permissible under the federal wiretap statute because of a parent's duty to act in the best interest of their child."

In this case, the mother has the primary custody of the child and all final decision-making authority for the child. Clearly she has the ability to not only listen to but record the conversations between the child and other individuals.

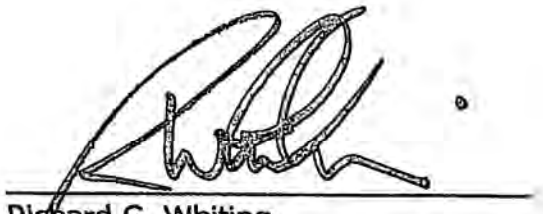
The father may contend that the recording of the telephone conversations of him is an invasion of privacy under either a federal or state constitution. As the court in Whitner sets out, the argument is dependent upon the rejection of the vicarious consent doctrine. "Because the Wiretap Act provides for vicarious consent of a minor child, Appellant's (here the mother) constitutional argument must be rejected .... (See Whitner IV.)

Chief Justices Toal and Beatty concurred in that decision authored by Judge Kitteridge. Justice Pleicones and Acting Justice Eugene C. Griffith, Jr. concur in a separate decision.

It is further anticipated that the father may argue that he was in Tennessee or Kansas for one or more of these telephone calls. That makes no difference. Both Tennessee and Kansas, like South Carolina, requires only one party's consent in a conversation to intercept, listen, or record that conversation.

Finally, the relief requested by the father in his motion to remove the Guardian *ad Litem* and to transfer custody sets out that he has filed a contempt action addressing the issue of Plaintiff recording the conversation allegedly "illegally." This court is not the court deemed appropriate for the determination as to whether or not the recordings should be suppressed. Pursuant to both federal and state statutes, our South Carolina Court of Appeals has designated the court of original jurisdiction to address that issue.

Respectfully submitted,



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dick.whiting@whitinglawsc.com

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE
	)	THIRTEETH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	C/A. NO.: 2018-DR-23-4502
Sarah Huet de Guerville,	)	
	)	
Plaintiff,	)	**MEMORANDUM OF AGREEMENT**
v.	)	
	)	
Brice Huet de Guerville,	)	
	)	
Defendant.	)	

PREAMBLE

THIS CONTRACT AND AGREEMENT, made and entered into this 21st day of January, 2020, by and between Plaintiff Sarah Huet de Guerville, ("Plaintiff"), and Defendant Brice Huet de Guerville, ("Defendant").

WITNESSETH:

WHEREAS, the parties to this Memorandum of Agreement, (hereinafter "Agreement"), were duly and legally married on the 29th day of October, 2011, in Clark County, State of Nevada; and

WHEREAS, the parties are currently engaged in marital litigation involving divorce, child custody, visitation, child support, alimony, equitable division of property and debts, attorney's fees and costs and other ancillary relief; and

WHEREAS, the Plaintiff is represented by attorney Angela E. Frazier, and Defendant is represented by attorney Linda C. Hayes. Both Plaintiff and Defendant have had full opportunity to consult with an attorney; and

WHEREAS, the parties now consider it to be in their respective best interests to settle between themselves all matters and issues arising heretofore, or hereafter to arise, from their marital union, except for the divorce itself, which would have otherwise been adjudicated by a Court of competent jurisdiction and have reached a complete final and permanent settlement agreement and now wish to reduce their Agreement to writing and desire that it shall constitute a total Agreement between them with respect to

EXHIBIT "A"

all matters relative to alimony, debt allocation, property division, child custody, visitation, and child support, attorney's fees and costs and all other matters which were raised or could have been raised between the parties hereto; and

WHEREAS, the parties understand that once this Agreement is made a court order all issues regarding their marital rights and responsibilities, including spousal support, alimony, equitable division of property, allocation of debts, child custody, visitation, and child support, attorney's fees and costs, and all matters related thereto are settled with finality; and

WHEREAS, both parties acknowledge that each is completely familiar with the financial ability, income, earning potential, properties, assets, debts, expenses, liabilities, worth and assets of the other, having reviewed the sworn Financial Declarations of the other and other documentation, and both parties represent that they have made a full and fair disclosure of same without fraud or misrepresentation. Both parties represent and warrant that neither incurred any debt, lien, or encumbrance on any asset described herein during the pendency of the action, and if so, the other party was promptly notified of all relevant details. Plaintiff and Defendant agree that the Financial Declarations submitted to the Family Court accurately depict the estimated living expenses for both households going forward; and

WHEREAS, both parties recognize that they are not entering into this Agreement as a result of any duress or undue influence; and they further recognize that each party has freely, actively, and fully taken part in the negotiations hereof over a reasonable period of time, and each fully accepts the terms and conditions hereof, and each party acknowledges and considers the same to be a fair, just, and equitable Agreement; and

WHEREAS, both parties agree that they have had sufficient time to read this Agreement; and

WHEREAS, both parties certify they have fully read and that they fully understand all the terms, conditions, and provisions in this Agreement, and that with such knowledge, each of them is signing this Agreement freely and voluntarily as the natural consequence of the breakdown of their marriage and have ascertained and weighed all the facts and circumstances likely to influence their judgment herein; and

WHEREAS, both parties have not entered into this Agreement under the influence of any drugs, alcohol, prescription medications, intoxicating substance, or mental condition that might impair their ability to understand the terms and conditions of this Agreement and its' effects or that might impair their ability to reason or exercise their free will; and

WHEREAS, Plaintiff represents that she is satisfied with her attorney and that she has been competently, fully, and fairly represented and advised of all her rights and responsibilities and that all of her questions have been answered to her satisfaction; and

WHEREAS, Defendant represents that he is satisfied with his attorney and that he has been competently, fully, and fairly represented and advised of all his rights and responsibilities and that all of his questions have been answered to his satisfaction; and

WHEREAS, both parties do not intend, by this Agreement, to condone any conduct on the part of the other which may now, or hereafter, constitute grounds for divorce and are not in collusion in any way whatsoever with respect to any action to obtain a divorce which either has instituted, or may hereafter be instituted, in a court of competent jurisdiction; and

WHEREAS, both parties intend that this Agreement should be approved, adopted, and made an order or decree by a court of competent jurisdiction after a hearing upon same, whether or not such court issues an order or decree of divorce to either party, and that this Agreement shall be incorporated in, merged with, and become a part of such order or decree and shall be fully enforceable as the order or decree of the court that approves it; and

WHEREAS, both parties understand that any violation or noncompliance of this Agreement, as an order of the court, may be deemed as contempt of court; and

WHEREAS, both parties are desirous of avoiding the uncertainty of litigation, trials and/or appeals, and they are desirous of obtaining the security of the terms, conditions, and provisions agreed to, accepted, and contained herein and further expediting the finalization and resolution of all disputes, controversies, and differences existing between them; and

NOW, THEREFORE, in consideration of the mutual and several binding promises, transfer of assets, assumption of liabilities, agreements, covenants, and undertakings herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby further acknowledge full satisfaction of the terms and conditions hereof and acknowledge the terms and conditions of this Agreement to be fair, just, equitable, adequate, and reasonable, and hereby freely and voluntarily agree and bind his/her/themselves, and his/her/their heirs, executors, administrators, assigns, estates, and any and all successors, as follows:

AGREEMENT OF THE PARTIES

1. ***Jurisdiction.*** The Plaintiff is a citizen and resident of Greenville County, State of South Carolina and has been for more than three (3) months prior to the commencement of the present action. Plaintiff last resided with Defendant in Greenville County, State of South Carolina.

2. ***Jurisdiction.*** At the time of the commencement of the action, Defendant was a citizen and resident of Greenville County, State of South Carolina, but Defendant now resides in Kansas City, Missouri.

3. ***Marriage.*** Plaintiff and Defendant were married on October 29, 2011, in Clark County, State of Nevada. They are husband and wife.

4. ***Separation.*** Plaintiff and Defendant have been living continuously separate and apart without cohabitation or reconciliation since on or about October 19, 2018, and it is their intention and agreement to continue to live separate and apart.

5. ***Jurisdiction and Venue.*** The parties stipulate to the personal and subject matter jurisdiction of the Family Court of South Carolina, and to Greenville County, State of South Carolina being the proper jurisdiction and venue for the current action and for future modification and enforcement of the terms of this Agreement.

6. ***Jurisdiction.*** Both parties agree that South Carolina is the home of the Minor Child. As such, both parties agree to give the Family Courts of South Carolina exclusive jurisdiction to enforce and/or modify the terms of this Agreement related to the Minor Child.

7. ***Separate Support and Maintenance.*** Plaintiff seeks an Order of Separate Support and Maintenance allowing Plaintiff to live separate and apart from Defendant. Plaintiff and Defendant are each free to engage in and conduct their respective social lives as if they were single and never married, without any interference from the other and without any impact on the enforceability of this Agreement.

CHILD CUSTODY/VISITATION/CHILD SUPPORT/OTHER CHILD ISSUES

8. ***Children.*** Of this marriage one (1) child was born, to wit: A.H., ("Minor Child"). No other children were born of this marriage, and no other children are expected.

9. ***Joint Legal Custody with Primary Placement to the Plaintiff.*** The parties agree to share joint legal custody of their Minor Child, with primary placement with Plaintiff. On all major parenting decisions, the parties will consult and use good faith efforts to resolve differences, but if the parties are unable to agree on the major parenting decision, Plaintiff will have the right to make the final decision.

10. ***Visitation.*** Defendant will have visitation with the Minor Child pursuant to the terms and conditions found in *Judge W. Marsh Robertson's Child Placement and Parenting Plan* with the Plaintiff as the custodial parent and the Defendant as the visiting parent, a copy of which is attached hereto and incorporated herein by reference as **"Exhibit A"** and which is modified such that the Defendant is waiving any mid-week visitation set forth in Paragraph I(B) and that pickup and drop off shall be as set forth herein rather than as set forth in Paragraph II(A) of **Exhibit A**. The parties agree to use their reasonable best efforts to have the weekend visitation for the Defendant coincide with the weekend visitation of the Defendant's daughter, C.E.W. If there is a substantial change in circumstances, then either party may file for a modification of the current Agreement. Both parties shall be bound by the Parenting Duties, Rights and Restrictions found in **Exhibit A**. Both parties will provide each other with notice of all travel outside of the State of the residence of the Plaintiff and Minor Child. Pick up and drop off of the Minor Child will be in Greenville County, South Carolina unless mutually

agreed upon otherwise.

11. ***Extracurricular Attendance.*** Both parents are allowed to attend all extracurricular activities of the Minor Child. Both parties shall have access to the Backpack website or other similar website provided by the school in which the Minor Child is attending so that both parties are aware of any school functions. Both parties shall provide the other with the contact information for extracurriculars so that they may each contact these persons and sign themselves up for any notices or communications provided, as well as any online login account information.

12. ***No Adverse Contact Order.*** Both parties shall be entitled to a "no adverse contact order" ("NACO"), that shall restrain and enjoin both the Plaintiff and Defendant from engaging, directly or indirectly, in any adverse, hostile, argumentative, threatening or unpleasant conduct, or any conduct beyond or worse than that described. This NACO shall allow the parties to contact, associate and communicate with each other only so long as both parties consent to such conduct; however, either party may end any contact, association or communication if he or she deems any contact, association, or communication as being adverse, hostile, or unpleasant. This NACO is not intended to trigger any elements of 18 U.S.C.A. § 922(g)(9), nor is it intended to rise to the level of, or be considered as, an Order of Protection under the South Carolina Protection from Domestic Abuse Act. Violation of this NACO shall subject the offending party to contempt of the Court.

13. ***Comments to the Minor Child.*** Both parties are restrained from making any disparaging comments about the other parent to the Minor Child, and neither party shall discuss the details of the litigation with the Minor Child or the order except to acknowledge that the order exists and must be followed, except if the Minor Child is in counseling or other psychological/psychiatric care and the Minor Child's provider believes it is in the Minor Child's therapeutic best interest to discuss the same.

14. ***Child Support Paid Directly.*** The parties agree that child support is to be paid by the Defendant directly to the Plaintiff in the semi-monthly amount of $583.00 on the 1st and the 16th day of every month in accordance with the *South Carolina Department of Social Services Child Support Guidelines.* Child support is

further calculated based on the parties having one (1) Minor Child together and on the Plaintiff's gross monthly income of $5,000.00, with the Plaintiff being given credit for paying $375.00 a month in child care and with the Defendant's gross monthly income of $11,267.00 and paying $654.00 in child support for a second child. Defendant's obligation shall begin on the first day of the month following the Final Order being filed with the Court and continuing thereafter. A copy of the child support worksheet is attached hereto and incorporated herein by reference as "**Exhibit B**". If the Defendant is late more than five (5) days, then the Plaintiff may file an affidavit with the Clerk of Court. Upon filing of said affidavit, then the Defendant shall pay child support through the Clerk of Court, along with the administrative fee which is currently five percent (5%).

15. ***Child Support/Family Support Arrearage and Health Insurance Reimbursement under the Temporary Order.*** The Defendant acknowledges he is in arrears to the Plaintiff for child support/family support, mortgage payments, and reimbursement for health insurance under the Temporary Order in the total agreed upon amount of $5,869.00 as of October 31, 2019. Defendant agrees to pay from his portion of the proceeds from the real estate closing on the Marital Home $5,869.00, plus 5% interest, which amount shall be deducted from the Defendant's portion of the real estate proceeds as part of the real estate closing. Defendant further agrees to remain current on his child support/family support and reimbursement of health insurance, and other obligations as set forth in the Temporary Order, with the exception that the Plaintiff waives any further rights to any mortgage payments accrued since November 1, 2019. However, if the Defendant fails to remain current in paying the child support/family support and reimbursement for health insurance or any other financial obligations, other than the mortgage payment, under the Temporary Order, beginning November 1, 2019, then Defendant agrees any additional arrearages shall be added to the current balance of $5,869.00 and shall also be paid from the Defendant's portion of the proceeds from the sale of the Marital Home, plus 5% interest.

16. ***Health Insurance.*** The Plaintiff agrees to be responsible for maintaining health insurance on the Minor Child, as long as it is reasonably available through her employer.

17. ***Uncovered Medical Costs and Expenses for the Minor Child.*** The parties agree to pay for all uncovered medical costs and expenses on a pro rata basis for the Minor Child in accordance with the *South Carolina Department of Social Services Child Support Guidelines*. Each party is responsible for sending the other party a copy of any invoices received for uncovered medical costs within (10) business days of receipt. As to any uncovered medical costs and expenses shown on the invoice, each party has ninety (90) business days from receipt of the invoice to pay their percentage of the uncovered amount owed to the provider directly.

18. ***Parental Contact.*** The parties agree they may both contact each other by text or e-mail regarding the Minor Child, and by phone, if the conversations remain civil. Upon written notice by either party, communications may only be made in writing.

19. ***Relocation.*** Plaintiff shall give the Defendant ninety (90) day notice of her intent to relocate prior to any move.

20. ***Guardian Recommendations and Supervised Visitation for the Paternal Grandmother.*** Any recommendations of the Guardian *ad Litem* will be followed; however, there shall be no unsupervised contact with the paternal grandmother and Minor Child. The paternal grandfather may not supervise any visitation.

21. ***Best Interest of the Minor Child.*** The parties agree and believe that this Agreement is in the best interest of the Minor Child.

EQUITABLE APPORTIONMENT

22. ***Waiver as to Financial Accounts and Other Property.*** Except as stated in this Agreement, the parties each release and relinquish any and all right, title and interest, including but not limited to, all legal and equitable interests, which either may have in any and all property, (real, personal or mixed) in the name of the other, including, but not limited to, checking, savings, money market accounts, retirement accounts, IRA's, 401k's, stocks, bonds, certificates of deposit, investments, interest in business ventures of any nature, annuities, pension and profit sharing plans, educational degrees, businesses, contractual rights (other than those created by this Agreement), and occupations. Each party

shall have and retain exclusive use, possession, and ownership of all assets titled in his or her name, except as expressly set forth in this Agreement.

23. ***Employment.*** Financial Declarations for both the Plaintiff and Defendant are attached hereto and incorporated herein by reference as "**Exhibit C**".

24. ***Costs and Expenses Associated with Equitable Division.*** Plaintiff and Defendant each acknowledge and agree to be solely responsible for and shall pay all costs relating to ownership, taxes, insurance, maintenance, and improvements on any and all real, personal or mixed property each party receives pursuant to this Agreement unless expressly stated otherwise herein. Each party agrees to immediately refinance and/or take the other party's name off of any property and/or debt received pursuant to this Agreement unless expressly stated otherwise herein.

25. ***Indemnification and Hold Harmless.*** Plaintiff and Defendant agree to indemnify and hold each other harmless for all present or future judgments, liens, or other indebtedness relating to any property or asset, which they are receiving pursuant to this Agreement unless expressly stated otherwise herein.

26. ***Real Property.*** The parties agree that Plaintiff will have the continued use and possession of the Marital Home located at 128 River Valley Lane, Greenville, South Carolina 29605 (the "Marital Home"), and will be responsible for the debt, as of November 1, 2019, plus the taxes, insurance, and utilities. Utilities shall be defined as water, internet, electric, gas, cable, trash pickup, lawn care, house cleaning, and CPI security monitoring. If the Defendant fails to make any payment directly to the Plaintiff or fails to make any child support/family support payment or reimburse the Plaintiff for health insurance under the terms of the Temporary Order, then any missed payments for child support/family support and health insurance reimbursements shall be deducted from the Defendant's portion of the proceeds from the Marital Home at the time of closing. In addition, the Defendant's portion of the proceeds from the Marital Home shall further be reduced as set forth in Paragraph 14 of this Agreement. The parties agree to use their reasonable and best efforts to list the Marital Home for sale with MLS no later than January 24, 2020.

Both parties agree to use Lisa Whitted as the realtor. Both parties agree to cooperate with the real estate agent regarding the listing price of the Marital Home and negotiating any offers that are made. The parties agree no reasonable offers will be refused, that any mutually agreed upon repairs necessary for sale will be divided equally, that the Plaintiff will keep the house in showable marketable condition or will make so upon notice of any showing. The parties agree to split the fee for the realtor and any other costs and expenses associated with the real estate closing equally. The parties agree to split net proceeds from the sale of the Marital Home equally, except that the parties agree that any amount remaining to be paid by the Defendant as set forth in Paragraph 14 of this Agreement shall be deducted from the Defendant's portion of the settlement proceeds from the sale of the Marital Home. In addition, since the Plaintiff is responsible for any amount owed on the mortgage for the Marital Home as of November 1, 2019, then the Plaintiff shall receive the benefit of any and all amounts paid towards the reduction of the principal and interest on the Marital Home as of November 1, 2019, in the calculation for any proceeds paid at the closing of the Marital Home. A copy of the mortgage statement as of November 1, 2019, is attached hereto and incorporated by reference as **"Exhibit D"**.

Plaintiff agrees to allow Defendant to set a reasonable sale price of the Marital Home with the realtor and negotiate concessions with potential buyers, as well as agreed on final sale price. Defendant will notify the Plaintiff of all offers of concession and will confer with Plaintiff. If Plaintiff and Defendant cannot come to a mutual agreement on which concessions to agree to, then the Defendant will have final say. Plaintiff also agrees to allow Defendant to have final say over what items are needed to prepare the house for sale, except that any requests shall be reasonable, and any costs associated therewith shall be equally split between the parties. Any reasonable repairs for normal wear and tear to the Marital Home shall be made by the Plaintiff, including the broken microwave handle and leaking faucets. Defendant agrees to pay Plaintiff $600.00 to assist in the 2020 costs of maintaining the Marital Home of which will paid out of proceeds of home sale. The $600.00 is not subject to 5% interest.

27. ***Loan Proceeds.*** The parties agree that the Defendant did take out a loan in the amount of

$28,000.00 for which he shall remain solely responsible, and if for some reason, this loan is required to be paid as part of the real estate closing for the sale of the Marital Home, then the Defendant agrees that his portion of the proceeds from the Marital Home shall be reduced in an amount necessary to payoff the loan and any other interest or fees associated with the loan.

28. ***Plaintiff Motor Vehicle.*** Plaintiff will have use, possession, and ownership of the 2015 Honda Odyssey automobile, and will be responsible for the debt, taxes, insurance, and maintenance associated with the 2015 Honda Odyssey. The Plaintiff shall refinance the 2015 Honda Odyssey automobile into her name within 90 days of this Agreement.

29. ***Defendant Motor Vehicle.*** Defendant currently leases a 2018 A4 automobile, which is leased in his name only. The Defendant will have use and possession of the 2018 A4 automobile, and will be responsible for the lease payments, insurance, and any other costs for which he is contractually obligated to pay regarding the 2018 A4 automobile. Defendant agrees to indemnify and hold the Plaintiff harmless as to any and all costs, expenses or payments for the 2018 A4 automobile.

30. ***Household Goods, Furnishings and Personal Property.*** The personal property of the marriage has been divided to the parties' mutual satisfaction. Each party shall have the full ownership and possession of the property in his or her own possession or titled in his or her own name and is to be responsible for any debt, maintenance, upkeep, and repair of the personal property.

31. ***Plaintiff's Fidelity 401(K) Retirement Account.*** Defendant is to receive Four Thousand Nine Hundred Fifty-Eight Dollars and 00/100 ($4,958.00) from the Plaintiff's Fidelity 401(k) account ending in 32077, subject to passive gains and losses, to effectuate the equitable division of the marital assets. Defendant's portion of this account shall be transferred by Qualified Domestic Relations Order, ("QDRO") so that the act of transfer does not create an immediate taxable event for either party. Both parties agree that attorney Linda Hayes shall prepare the QDRO and that the Defendant shall supply the order, and pay any costs and fees, including attorney fees, associated with the QDRO. Any administrative fee charged by the holder of the account will be paid in equal shares by the Plaintiff and Defendant. Plaintiff agrees to cooperate with signing any documents

necessary to effectuate this provision, and Plaintiff shall provide access to any documents necessary to effectuate the intent of this paragraph. Except as otherwise set forth herein, Plaintiff shall retain the benefit of any remaining funds in the Plaintiff's Fidelity 401(k) account. The Defendant shall retain the benefit of any funds remaining in his retirement account.

32. ***Plaintiff's TRPC 401(k) Account.*** Plaintiff shall retain the use and benefit of the TRPC 401(k) account, which has an approximate marital balance as of the date of filing on October 19, 2018, of Six Thousand Six Hundred Eighteen Dollars and 00/100 ($6,618.00). The Defendant shall waive any right, title, or interest in this account or in any of the funds in the Plaintiff's TRPC 401(k) account.

33. ***Student loans.*** Defendant is to responsible for any student loan debt in his name.

34. ***Judgments.*** Neither party has current judgments against them.

35. ***Debt.*** Upon the execution of this Agreement, each party shall return to the other all credit cards and other indicia of credit in the name of the other, and shall make no further charges thereon. All accounts of a joint and several nature shall be closed, so as to not impair the credit of the other. The parties agree they shall not make any further charges for services, property or any other matter in the name of the other or against the account of the other. It is acknowledged and agreed that both parties have certain amounts of indebtedness in his or her individual name and that each party shall be solely responsible for any debt listed in his or her individual name unless expressly stated otherwise herein. With regard to any debt held in the name of the Plaintiff, the Plaintiff agrees to be solely responsible and to indemnify the Defendant and hold him harmless for any debt in her individual name. With regard to any debt held in the name of the Defendant, the Defendant agrees to be solely responsible and to indemnify the Plaintiff and hold her harmless for any debt in his individual name.

36. ***Plaintiff's Credit Card Debt.*** Plaintiff agrees to be responsible for the following credit card debts:

a. CitiMaster Card ending in 3283;

b. Discover Card ending in 2265;

c. Capital One Visa Card ending in 2510;

d. Delta Skymiles Card ending in 1005;

e. CitiCard ending in 4765; and

f. Plaintiff will remove Defendant as a user on the credit cards listed in this paragraph, and hold Plaintiff will indemnify and hold Defendant harmless for the debt associated therewith.

37. ***Defendant's Credit Card Debt.*** Defendant agrees to be responsible for the following credit card debts:

a. American Express Card ending in 1014; and

b. Delta Skymiles Card ending in 5007.

c. Defendant will remove Plaintiff as a user on the credit cards listed in this paragraph, and Defendant will indemnify and hold Plaintiff harmless for the debt associated therewith.

38. ***Medical Debt.*** Plaintiff agrees to be responsible for any past or future medical expenses she has incurred or will incur. Defendant agrees to be responsible for any past or future medical expenses he has incurred or will incur.

39. ***Health Insurance.*** The parties agree that each will maintain their own medical, dental, vision, and prescription insurance coverage.

40. ***Beneficiary Interests.*** Both parties shall each have the right to change any beneficiary designation they may have on any life or other insurance policy, or any financial, savings, retirement or investment account, except as otherwise set forth herein.

41. ***Keys, combination codes, documents and passwords.*** The parties shall each turn over to the other any and all keys, combination codes, documents and passwords each will need for the vehicles, properties, and services each shall keep per the division of the forgoing set forth in this Agreement.

42. ***Jurisdiction for Enforcement of Equitable Apportionment.*** The Family Court shall maintain continuing jurisdiction to issue any orders necessary to fully implement and effectuate the equitable

apportionment of marital property. Each party shall cooperate with the other concerning the transfer of title ownership of any asset or debt they receive and/or for which they are responsible. Furthermore, each party shall be responsible for the timely payment of all fees, costs, and expenses related to any asset or debt they receive and/or for which they are responsible. If it is subsequently discovered that either party owned any asset on the date of filing of this action not disclosed in this matter, or that either incurred debt that was not disclosed, this Court reserves and retains jurisdiction to apportion such asset(s) and debt(s) between the parties and to award either party attorney's fees and costs in any proceeding for the apportionment of such asset(s) or debt(s).

ALIMONY

43. ***Alimony.*** Plaintiff and Defendant waive any and all rights and/or claims to alimony and/or support and maintenance against the other, both now and in the future. Both parties expressly acknowledge and agree that they are freely, voluntarily, and knowingly, forever waiving any and all rights to alimony from the other and that this provision is non-modifiable by the parties and the family courts.

44. ***Taxes.*** The parties shall file separate income taxes for the year 2019 and all subsequent years. Defendant and Plaintiff represent and warrant that all information supplied for all tax returns during the marriage are, in all respects, true, correct and complete and fully and accurately reflect income and deduction for those years.

OTHER PROVISIONS

45. ***Modifications.*** It is the intent of the parties hereto that the provisions of this Agreement shall govern all rights and obligations of the parties, as well as rights of modification. No modification or waiver of any breach by either party of the terms and conditions of this Agreement shall be binding upon either of the parties unless reduced to writing and subscribed to by both of the parties. Both parties agree that any future modifications shall be based on the Court's ability to modify subject to South Carolina law.

46. ***Applicable Law.*** This Agreement shall be construed and interpreted in accordance with the laws of the State of South Carolina. Jurisdiction and venue for approval of this Agreement shall be in the Family Court of the Thirteenth Judicial Circuit, Greenville County, State of South Carolina.

47. ***Enforcement.*** Once approved and made the order of the Family Court for the Thirteenth Judicial Circuit in Greenville County, State of South Carolina, it shall have continuing and exclusive jurisdiction to enforce the terms and conditions of this Agreement, along with any order issued with respect thereto, and all of the parties shall be subject to contempt powers and jurisdiction of the Family Court for the Thirteenth Judicial Circuit in Greenville County, State of South Carolina with respect to any willful violation or breach of this Agreement or the order of this Court.

48. ***Entire Agreement.*** All parties hereby acknowledge and agree that this is a full and complete Agreement with respect to all matters raised or those, which could have been raised in the controversy between them. This Agreement shall be binding on the parties hereto, their heirs, executors, administrators and assigns, and it is the whole and only Agreement between the parties.

49. ***Reconciliation.*** That both parties agree there is no possibility of reconciliation.

50. ***Attorney's Fees and Costs.*** Both parties shall be responsible for their own attorney's fees and costs.

51. ***Guardian ad Litem Fees.*** Both parties agree to split the Guardian *ad Litem* fees on the same pro rata split as the uncovered medical expenses and costs.

52. ***Waiver of Elective Share and Estate Rights.*** Except for obligations created by this Agreement, each party forever waives and releases any claim he or she may have against the estate of the other party. Each party waives any and all right of election which he or she may have as a surviving spouse of the other, to take any part of the party's estate, against the contrary terms of the other party's Will or of the other party's estate planning devices as presently existing or hereafter adopted or amended under the law of any state whatsoever, now existing or hereafter arising.

53. ***Good Faith.*** That this action is brought in good faith and there has been neither fraud nor collusion between the parties.

MISCELLANEOUS

We are the parties in this action. We understand that we have the right to appear in Court before a Family Court Judge either to resolve the issues if not previously settled or to answer any questions we might have without the Agreement set forth in the attached Order. We waive this right and desire that this Agreement be approved without the necessity of a Court appearance.

We fully understand the terms and ramifications of the Agreement, and we consider the Agreement to be fair and reasonable under the circumstances of this case and in the best interest of our Minor Child.

(SIGNATURE PAGES TO FOLLOW)

I, **Sarah Huet de Guerville**, have read this Memorandum of Agreement in its' entirety and, fully understand its' contents, and do freely and voluntarily sign it this 21st day of January, 2020.

Sarah Huet de Guerville
Sarah Huet de Guerville

Witness

Jennifer Delguest
Witness

State of South Carolina)
)
County of Greenville)

PROBATE

PERSONALLY APPEARED BEFORE ME the undersigned witness and made oath that (s)he saw **Sarah Huet de Guerville**, sign, seal, and, as her/his act and deed, deliver the within-written Memorandum of Agreement, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN before me this the 21st day of January, 2020

Notary Public for South Carolina
My Commission expires: April 28, 2022

Jennifer Delguest
Witness

JESSICA F. DILLARD
NOTARY
PUBLIC
SOUTH CAROLINA

My Commission Expires
April 28, 2022

I, **Brice Huet de Guerville**, have read this Memorandum of Agreement in its' entirety and, fully understand its' contents, and do freely and voluntarily sign it this 17th day of January, 2020.

Brice Huet de Guerville

Shelley Brewer
Witness

Rhonda Morris
Witness

State of South Carolina)
)
County of Greenville)

PROBATE

PERSONALLY APPEARED BEFORE ME the undersigned witness and made oath that (s)he saw **Brice Huet de Guerville**, sign, seal, and, as her/his act and deed, deliver the within-written Memorandum of Agreement, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN before me this the 17 day of January, 2020

Notary Public for South Carolina
My Commission expires: 8-29-23

Shelley Brewer
Witness

Linda C. Hayes, Attorney
for Defendant

EXHIBIT A

CHILD PLACEMENT AND PARENTING PLAN

(W. Marsh Robertson, Family Court Judge)

The child placement schedule and parenting provisions outlined below (the "Plan") shall be legally binding on the parties unless and until modified by subsequent court order. The terms of this Plan are fully incorporated into the Court Order to which this Plan is attached, and shall be enforceable as to both parents through the contempt powers of the Family Court.

I. CHILD PLACEMENT SCHEDULE

This section sets forth the court-ordered child placement to which the noncustodial/secondary custodial parent ("visiting parent") shall be entitled to exercise at a minimum. The visiting parent and the primary custodial parent ("custodial parent") are free to supplement or deviate from this schedule at any time by mutual consent or agreement. The terms of this section shall therefore be construed as the "default" visitation schedule where no agreement to the contrary exists. Summer Placement and Holiday Placement shall supersede and take precedence over Weekend Placement and Midweek Placement where conflicts arise.

A. **Weekend Placement:** The visiting parent shall have child placement on alternating weekends ("visitation weekends") from 6:00 PM Friday until 6:00 PM Sunday. During the school year, visitation weekends will be extended where applicable by 24 hours to include any Friday or Monday school holiday.

B. **Weekday Placement:** The visiting parent shall have midweek child placement from 5:30 PM until 8:30 PM as follows: (1) each Thursday immediately following a visitation weekend; and (2) each Tuesday immediately following a non-visitation weekend.

C. **Summer Placement:** The visiting parent shall have child placement for four full weeks each summer, to include one week in June, two weeks in July, and one week in August. The visiting parent shall notify the custodial parent by no later than April 15 each year of the selected summer placement weeks. The visiting parent may not in consecutive years select a week that includes Independence Day or a child's birthday.

D. **Holiday Placement**

1. **Christmas:** The visiting parent shall have child placement for one full week during the Christmas school vacation ("Christmas visitation week"). On odd-numbered years, the Christmas visitation week will begin at 2:00 PM Christmas Day. On even-numbered years the Christmas visitation week will end at 2:00 PM Christmas Day. The Christmas school vacation shall be as defined by the school that the child/children attend; or if the child/children do not yet attend school, then by the public school district of the child/children's residence.

2. **Thanksgiving:** The visiting parent shall have child placement on odd-numbered years for the extended Thanksgiving weekend from 6:00 PM Wednesday until 6 PM Sunday. The custodial parent shall have this placement on even-numbered years.

3. **Easter Weekend / Spring Break:** The visiting parent shall have child placement on even-numbered years for the entire Spring Break vacation and the weekend that includes Easter Sunday, from 6:00 PM on the day school lets out until 6:00 PM on the day prior to school recommencing. The custodial parent shall have this placement on odd-numbered years. Spring Break vacation shall be as defined by the school that the child/children attend; or if the child/children do not yet attend school, then by the public school district of the child/children's residence.

4. **Mother's Day / Father's Day / Parent Birthdays:** If the child/children are scheduled to be with the other parent, child placement shall nevertheless be with the mother on Mother's Day and with the father on Father's Day from 9:00 AM to 9:00 PM; and with the mother on her birthday and the father on his birthday from 5:30 PM to 8:30 PM.

II. PARENTING DUTIES, RIGHTS AND RESTRICTIONS

A. **Placement Exchanges:** Absent other arrangements mutually agreed upon by the parents, the visiting parent will pick the child/children up from the home of the custodial parent at the beginning of scheduled visitation, and the custodial parent will pick the child/children up from the home of the visiting parent at the end of scheduled visitation. Both parents will have a duty to ensure that the child/children are available at their respective homes for timely exchanges.

B. **Notice of Unavailability:** The visiting parent shall provide reasonable advance notice to the custodial parent of his or her intention for any reason not to exercise any placement rights available under this schedule.

C. **Telephone Access:** Each parent shall have reasonable, private access to the child/children by telephone while physical child placement is with the other parent.

D. **Access to Records and Activities:** Each parent, whether the custodial or noncustodial parent, has equal access and the same right to obtain all educational records and medical records of their minor children and the right to participate in their children's school activities.

E. **Restraining Order:** While exercising physical child custody or placement, the parents shall be mutually restrained from willfully or negligently (a) engaging in any illegal conduct or activity; (b) subjecting or exposing the child/children to any acts of abuse or neglect; (c) engaging in conduct that endangers the physical or emotional wellbeing of the child/children; and (d) violating any additional restraining orders that may be specified in the court order to which this Plan is attached.

399 S.C. 547
732 S.E.2d 861

The STATE, Respondent,
v.
Samuel WHITNER, Appellant.

No. 27142.

Supreme Court of South Carolina.

Heard Oct. 18, 2011.
Decided July 11, 2012.

[732 S.E.2d 862]

Chief Appellate Defender Robert M. Dudek, of Columbia, and Christopher D. Scalzo, of Greenville, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, and Assistant Attorney General William M. Blitch, Jr., all of Columbia, and W. Walter Wilkins, III, of Greenville, for Respondent.

Justice KITTREDGE.

[399 S.C. 550]Appellant Samuel Whitner was convicted and sentenced for the offense of criminal sexual conduct (CSC) with a minor in the first degree. The victim of the sexual abuse was Appellant's then five-or six-year-old daughter. Appellant assigns error to two evidentiary rulings. The first ruling was the denial of Appellant's motion to suppress a tape recording of his telephone conversation with the victim wherein he admitted the abuse. The second ruling was the denial of Appellant's motion to exclude evidence in connection with a forensic interview of the minor victim. We find no error in the admission of the challenged evidence and affirm.

I.

Appellant is the victim's biological father. According to the victim's testimony, when she was five or six years old, Appellant exposed his penis to victim and forced her to perform oral sex on him twice.

In 2007, when the victim was eleven years old, the victim disclosed the abuse to her mother (Mother). According to Mother, she encouraged the victim to confront Appellant. The victim telephoned Appellant to confront him, and he denied the incident. Mother subsequently informed her husband (Stepfather) about the abuse. The couple decided to record telephone calls between Appellant and the victim. Several days later, Mother consented to Stepfather recording a telephone conversation between the victim and Appellant without the victim's knowledge or consent. During the thirty-one-minute conversation, Appellant admitted the sexual abuse

[732 S.E.2d 863]

and stated that the incident was a mistake he deeply regretted.

Mother supplied the recording to law enforcement, and Appellant was arrested and charged with CSC with a minor in the first degree. As part of the investigation, a forensic interview of the victim was conducted.

Appellant filed a motion to suppress the recorded telephone conversation, claiming the recording, intercepted without the [399 S.C. 551]prior consent of either party, violated the South Carolina Homeland Security Act (Wiretap Act), S.C.Code Ann. § 17–30–10 *et. seq.* (Supp. 2010), which generally prohibits the interception of communications. A circuit court judge granted the motion to suppress.[1]

The State filed an interlocutory appeal with the court of appeals and sought to vacate the trial court's suppression order pursuant to the Wiretap Act. The court of appeals correctly granted the State's motion to vacate and found that the trial court lacked subject matter jurisdiction because the Wiretap Act requires that a motion to

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EXHIBIT "B"

suppress be made before a panel of judges of the court of appeals.

Thereafter, the court of appeals held a suppression hearing, including the taking of testimony and oral arguments. Stepfather testified that he believed recording the conversation would aid the parents in deciding the best course of action for the victim, including determining whether she needed sexual abuse counseling. Likewise, Mother testified she believed recording the conversations would be useful because she did not know what the conversations between the victim and Appellant entailed, the victim was crying often, and she needed to determine if it was appropriate to permit Appellant to have contact with the victim.

On the legal issue of consent, the court of appeals held that the Legislature, in enacting the Wiretap Act, intended to adopt the vicarious consent doctrine. Mother could, therefore, lawfully vicariously consent to the recording on behalf of the victim. On the factual matter, the court of appeals found that Mother had a good faith and objectively reasonable basis for believing the recording was necessary and in the victim's best interest, and it therefore denied Appellant's motion to suppress. The court of appeals sent the case back to the trial court.

At trial, the recording of the phone conversation between Appellant and the victim was admitted, over Appellant's continuing objection. The State also introduced a videotape of the victim's forensic interview. The contents of the interview were similar to the underlying allegations the victim first [399 S.C. 552]disclosed to Mother and the testimony given by the victim at trial. The videotape was admitted over Appellant's objections of improper bolstering and hearsay. The jury convicted Appellant of CSC with a minor in the first degree, and he was sentenced to prison. This appeal follows.

II.

Appellant claims the Wiretap Act was violated because neither he nor the victim, the parties to the communication, consented to the recording. Conversely, the State claims the Wiretap Act was not violated because the recording fell within the consent provision. Specifically, the State contends the statute allows Mother, as a guardian to the minor victim, to vicariously consent on behalf of the victim to record the telephone conversation between the victim and Appellant.

The South Carolina Wiretap Act is patterned after the Omnibus Crime Control and Safe Streets Act of 1968 (Federal Act). This Court must determine whether the Wiretap Act allows or bars the admission of the recording.

Questions of statutory interpretation are questions of law, which are subject to *de novo* review and which we are free to decide without any deference to the court below. *Transp. Ins. Co. & Flagstar Corp. v. S.C. Second Injury Fund,* 389 S.C. 422, 427, 699 S.E.2d 687, 689 (2010); *Catawba Indian Tribe of S.C. v. State,* 372 S.C. 519, 524, 642 S.E.2d 751, 753 (2007).

The cardinal rule of statutory interpretation is to ascertain and effectuate the

[732 S.E.2d 864]

intent of the legislature. *Sloan v. Hardee,* 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007). "All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute." *State v. Sweat,* 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010). Absent an ambiguity, the court will look to the plain meaning of the words used to determine their effect. *City of Rock Hill v. Harris,* 391 S.C. 149, 155, 705 S.E.2d 53, 55 (2011). "Under general rules of statutory construction, a jurisdiction adopting legislation from another jurisdiction imports with it the judicial[399 S.C. 553]gloss interpreting that legislation." *Orr v. Clyburn,* 277 S.C. 536, 540, 290 S.E.2d 804, 806 (1982).

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The Wiretap Act is violated when a person intercepts oral communications that are not otherwise exempt from or subject to an exception contained in section 17–30–30. Evidence intercepted in violation of the Wiretap Act must be suppressed. *See*S.C.Code Ann. § 17–30–110. However, when a party to a communication gives consent for the communication to be intercepted, such recording does not violate the law. The full text of the consent provision states:

It is lawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication *where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception.*

S.C.Code Ann. § 17–30–30(C) (emphasis added).

Appellant argues that because there is no explicit provision permitting vicarious consent, parental consent on behalf of a minor was not intended to be an exception to the Wiretap Act. We disagree.

Our Wiretap Act parallels the Federal Act passed by Congress in 1968, which similarly permits lawful interception where one party to the communication consents.[2] Because no South Carolina cases have addressed a parent's ability to vicariously consent to the recording of a child's telephone conversations and because the Federal Act is substantively the same as South Carolina's Wiretap Act, we look to the federal courts' interpretations regarding vicarious consent. *See Orr,* 277 S.C. at 540, 290 S.E.2d at 806 ("Under general rules of statutory construction, a jurisdiction adopting legislation from another jurisdiction imports with it the judicial gloss interpreting that legislation.").

[399 S.C. 554] The leading federal case is *Pollock v. Pollock,* 154 F.3d 601 (6th Cir.1998). In *Pollock,* the Sixth Circuit Court of Appeals held that a mother did not violate the Federal Act when she recorded conversations between her daughter and the daughter's stepmother. The *Pollock* court, adopting the rule first enumerated in *Thompson v. Dulaney,* 838 F.Supp. 1535, 1544 (D.Utah 1993), articulated the doctrine of vicarious consent as follows:

[A]s long as the guardian has a good faith, objectively reasonable basis for believing that it is necessary and in the best interest of the child to consent on behalf of his or her minor child to the taping of telephone conversations, the guardian may vicariously consent on behalf of the child to the recording.

154 F.3d at 610;*see also Wagner v. Wagner,* 64 F.Supp.2d 895, 896 (D.Minn.1999) (holding a guardian may consent on behalf of a minor to the interception of a communication); *Campbell v. Price,* 2 F.Supp.2d 1186, 1191 (E.D.Ark.1998) (holding a parent's good faith concern for his minor child's best interest may empower the parent to legally intercept the child's conversations); *Thompson v. Dulaney,* 838 F.Supp. 1535, 1544 (D.Utah 1993) (finding the vicarious consent doctrine permissible under the federal wiretap statute

[732 S.E.2d 865]

because of a parent's duty to act in the best interest of their child).

South Carolina's Wiretap Act, modeled after the Federal Act, was enacted in 2002. As the above federal jurisprudence indicates, when our Legislature enacted the Wiretap Act, it was well aware of the majority rule concerning construction of the Federal Act in allowing for vicarious consent.[3] We are persuaded that the consent provision in the Wiretap Act encompasses vicarious consent. In reaching this conclusion, we join the majority of state courts that have confronted the same question of statutory construction and have followed the [399 S.C. 555]federal interpretation. *Accord Silas v. Silas,* 680 So.2d 368 (Ala.Civ.App.1996); *G.J.G. v. L.K.A.,* No. CN93–09835, 2006 WL 2389340

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(Del.Fam.Ct.2006); *State v. Spencer,* 737 N.W.2d 124 (Iowa 2007); *Smith v. Smith,* 923 So.2d 732 (La.App. 1 Cir. 9/28/05); *Kroh v. Kroh,* 152 N.C.App. 347, 567 S.E.2d 760 (2002); *State v. Diaz,* 308 N.J.Super. 504, 706 A.2d 264 (N.J.Super.A.D.1998); *People v. Clark,* 19 Misc.3d 6, 855 N.Y.S.2d 809 (N.Y.Sup.Ct.App.Term 2008); *Lawrence v. Lawrence,* No. E2010–00395COA–R3–CV, 2010 WL 4865516 (Tenn.Ct.App.2010); *Alameda v. State,* 235 S.W.3d 218 (Tex.Crim.App.2007).

We further find that Appellant misconstrues the scope of the term "consent." "Consent" is a broad term and is defined as "agreement, approval, or permission as to some act or purpose." Black's Law Dictionary 346 (9th Ed. 2009). The law recognizes different kinds of consent, including express, implied, informed, voluntary, and parental. Parental consent is defined as "[c]onsent given on a minor's behalf by at least one parent, or a legal guardian, or by another person properly authorized to act for the minor, for the minor to engage in or submit to a specific activity." *Id.* We believe the various types of consent recognized in the law support the result we reach today in discerning legislative intent to include vicarious consent.[4]

[399 S.C. 556]In sum, we believe the court of appeals correctly determined that the consent provision in the Wiretap Act includes vicarious consent.

III.

Appellant contends that even if the Wiretap Act encompasses vicarious consent, that doctrine is not applicable in the instant case. Initially, Appellant asserts that before the vicarious consent doctrine may be applied, a court must find the minor lacked capacity to consent. Additionally, Appellant argues Mother and Stepfather did not have a good faith and objectively reasonable basis for believing it was necessary and in the best interest of the victim to record the telephone conversation.

[732 S.E.2d 866]

A.

Appellant argues that the victim was capable of consenting because she was eleven years old at the time of the recording. But a minor's actual ability to consent does not preclude a parent's ability to vicariously consent on her behalf. *See Pollock,* 154 F.3d 601 (applying the vicarious consent doctrine to a fourteen-year-old); *State v. Spencer,* 737 N.W.2d 124 (Iowa 2007) (applying the vicarious consent doctrine to a thirteen-year-old); *Alameda v. State,* 235 S.W.3d 218 (Tex.Crim.App.2007) (applying the vicarious consent doctrine to a thirteen-year-old). Further, we believe it inadvisable to create a bright-line age limit for the application of vicarious consent because "not all children develop emotionally and intellectually on the same timetable." *Pollock,* 154 F.3d at 610. Thus, the ability to invoke the vicarious consent doctrine prior to the age of majority does not turn on an age-mandated bright-line rule, nor does it require a minor's lack of capacity.

B.

Appellant next contends that the court of appeals erred in finding Mother had a good faith and objectively [399 S.C. 557]reasonable basis for intercepting the telephone conversation between the victim and Appellant. Pursuant to the procedure prescribed by the Wiretap Act,[5] the court of appeals acted as the trial court in the motion to suppress hearing. "The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion." *State v. Gaster,* 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002). "An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." *Clark v. Cantrell,* 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000).

The parents' motivation in recording the telephone conversation is a question of fact. Given our standard of review, the issue before us is limited to a determination of whether there was any evidence supporting the court of appeals'

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finding that the parents had a good faith basis for intercepting and recording the phone conversation.

Mother and Stepfather testified they believed the recordings would assist them in deciding the best course of action and in determining whether the victim needed counseling. Likewise, Mother testified it was necessary to determine if it was in the victim's best interest to have continued visitation with Appellant. We believe the evidence supports the court of appeals' finding that Mother had a good faith and objectively reasonable belief that intercepting the telephone conversation was necessary and in the victim's best interest. [6] Thus, we [399 S.C. 558]conclude the court of appeals did not abuse its discretion in denying the motion to suppress.

IV.

Appellant also contends the interception of the phone conversation was an unreasonable

[732 S.E.2d 867]

invasion of privacy under the additional protections afforded by our state's constitution. *See*S.C. Const. art. I, § 10 ("The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated...."). We disagree. Appellant's argument is dependent upon a rejection of the vicarious consent doctrine. Because the Wiretap Act provides for vicarious consent of a minor child, Appellant's constitutional argument must be rejected.

V.

Appellant's final issue on appeal addresses the admissibility of the forensic interview videotape, contending it was cumulative repetition of the minor victim's testimony at trial and improper bolstering. We disagree. As with any issue regarding the admissibility of evidence, we review the trial court's ruling for abuse of discretion. *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006).

Generally, a prior consistent statement is not admissible unless the witness is charged with fabrication or improper motive or bias. Rule 801(d)(1)(B), SCRE. However, in CSC cases involving minors, the Legislature has made specific allowances for such hearsay statements of child victims under the proper circumstances. *See*[399 S.C. 559]S.C.Code Ann. § 17–23–175 (Supp.2010) (prescribing the requirements that must be met for a child victim's out-of-court statement to be admitted). Moreover, the South Carolina Rules of Evidence explicitly recognize the authority of the Legislature to enact evidentiary rules. *See* Rule 101, SCRE ("Except as otherwise provided by rule or by statute, these rules govern proceedings in the courts of South Carolina...."). Unless a legislative enactment concerning a matter of evidence violates the constitution, the legislative enactment is valid. *See City of Rock Hill v. Harris*, 391 S.C. 149, 154, 705 S.E.2d 53, 55 (2011) (holding that the General Assembly may enact any law not expressly, or by clear implication, prohibited by the state or federal constitutions).

Section 17–23–175 is a valid legislative enactment. Admittedly, we have confronted instances where the State has abused the statute and sought to have the forensic interviewer, improperly imbued with the imprimatur of an expert witness, invade the province of the jury by vouching for the credibility of the alleged victim. However, this is not such a case. In fact, the forensic interview of the child and mere foundational trial testimony of the interviewer serve as a model of how the statute is designed to work. Specifically, the forensic interviewer did not improperly lead or influence the victim in any way, and the victim answered the questions on her own accord. Moreover, the forensic interviewer's testimony was for the limited purpose of laying the proper foundation for the admission of the videotape. [7] It offered no improper testimony, and included no bolstering testimony that would invade the province of the jury. *Compare State v. Jennings*, 394 S.C. 473,

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716 S.E.2d 91 (2011) (finding the trial court erred in admitting portions of forensic interviewer's written reports that went to the victims' veracity for truth regarding the allegations of abuse) *with State v. Douglas,* 380 S.C. 499, 671 S.E.2d 606 (2009) (holding that trial court's admission of testimony from a forensic interviewer did not prejudice defendant as interviewer testified as to her personal observations and did not vouch for the victim's veracity). Thus, there was [399 S.C. 560]no error in the admission of the forensic interview into evidence.

VI.

In sum, we believe the Legislature intended the consent provision in the Wiretap Act to encompass the vicarious consent of a parent on behalf of a minor child. Moreover, there was evidence from which the court of appeals could conclude the parents had a good faith and objectively reasonable basis for recording the phone conversation and, accordingly, the court of appeals did not abuse its discretion in denying the motion to suppress. Additionally, we find no error in

[732 S.E.2d 868]

the trial court's admission of the forensic interview videotape.

AFFIRMED.

TOAL, C.J., and BEATTY, J., concur. PLEICONES, J., concurring in a separate opinion in which Acting Justice EUGENE C. GRIFFITH, concurs.

Justice PLEICONES.

I concur with the result reached by the majority but write separately to express my concerns regarding the majority's adoption of the *Pollock* test, which I believe places an undue burden on a parent to justify his vicarious consent on behalf of his child under South Carolina's Wiretap Act. I also write separately regarding the admission of bolstering testimony under S.C.Code Ann. § 17–23–175 (Supp.2010).

I.

I agree with the majority that the Wiretap Act permits the substitution of a parent's consent for that of a minor who is a party to the communication. However, the *Pollock* test, articulated in *Pollock v. Pollock,* 154 F.3d 601 (6th Cir.1998), and adopted by the majority without alteration, fails to fully account for the scope of parental rights under the United States Constitution.[8]

[399 S.C. 561]Under the *Pollock* test, "a clear emphasis is put on the need for the 'consenting' parent to demonstrate a good faith, objectively reasonable basis for believing such consent was necessary for the welfare of the child." 154 F.3d at 610. The test is said to "create[ ] *important limitations* on the ability of a parent or guardian to vicariously consent to the recording of his or her child's conversations." *State v. Spencer,* 737 N.W.2d 124, 131 (Iowa 2007) (emphasis added). The "good faith, objectively reasonable basis" limitation in the *Pollock* test was adopted from *Thompson v. Dulaney,* the first case to consider the question whether the federal Wiretap Act should be interpreted to include a vicarious consent exception. 838 F.Supp. 1535 (D.Utah 1993). In *Thompson,* the parent argued that she had a constitutional right to direct the upbringing of her children. However, in finding that a vicarious consent exception was implied in the Wiretap Act, the court based its reasoning on the parent's statutory duty. The court found that in order for the parent to fulfill her duty under a Utah statute to protect her children, she must be able to supervise their communication with third parties, at least when the children are very young, as they were in the case it was considering. *Id.* at 1544. The *Thompson* court did not explain what interests created a need for a limitation on parents' authority to vicariously consent for their children under the federal Wiretap Act. Other courts that have adopted the vicarious consent doctrine have noted in passing that a parent has a constitutional right to guide the upbringing of her

fastcase

children, but they have not directly addressed the constitutionality of the "good faith, objectively reasonable basis" limitation or explained why it is important.

Some commentators have criticized the *Pollock* test for failing to adequately account for a minor's right to privacy. [399 S.C. 562]*Spencer*, 737 N.W.2d at 131–32 (citing commentators who raise this concern). Presumably it is a minor's right to privacy that concerned the *Thompson*, *Pollock*, and other courts and that they sought to protect through the good faith limitation, even though the result does not provide as much privacy to minors as some commentators would desire.

Minors do have some legally recognized right to privacy, most notably the "privacy" of being able to make some choices that are essential to a person's most basic autonomy. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 899, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992). In

[732 S.E.2d 869]

Casey, the United States Supreme Court found that under certain narrow circumstances a minor's fundamental right to privacy would be violated by a government-enforced parental veto of the minor's choice. Aside from the right of a mature minor to make some irreversible and life-altering decisions, however, a minor's interest in privacy has barely been accorded legal recognition. It has been accorded least recognition vis-á-vis parents. [9] Moreover, *Casey* involved state action operating to override the choice of a minor with the capacity to make the choice at issue. That is, insofar as the Constitution protects the privacy interests of minors, it protects them from governmental intrusion, not from parental intrusion unaided by government.

On the other hand, a parent has a right under the Constitution to guide the upbringing of her child. In *Troxel v. Granville*,[10] decided after both *Thompson* and *Pollock*, the [399 S.C. 563]Court identified as "*fundamental* [the] right of parents to make decisions concerning the care, custody, and control of their children." 530 U.S. 57, 66, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000) (plurality opinion) (emphasis added). Seven justices agreed that the constitutional right of a parent to direct the upbringing of her child is violated when her judgment regarding the child's associations is not accorded deference by the courts. 530 U.S. at 67, 120 S.Ct. 2054 (plurality), 78–79, 120 S.Ct. 2054 (Souter, J., concurring), 80, 120 S.Ct. 2054 (Thomas, J., concurring), 94, 120 S.Ct. 2054 (Kennedy, J., dissenting). Of course, as with other constitutional rights, the constitutional protection does not confer on parents an unlimited right to control their children, but it limits the extent of governmental involvement in a particular area and places a heavy burden on the state to justify any governmental restriction of parental rights. The Wiretap Act, read without an exception, would substantially restrict parental rights in favor of an interest that has received little if any legal protection in any other context. Read with a limited exception, the Wiretap Act subjects the exercise of parental constitutional rights to substantial state supervision, again in favor of a barely recognized interest. In my view, either of those readings fails to withstand the strict scrutiny ordinarily applied to governmental restrictions on fundamental rights.

Troxel concerned the appropriate treatment of parental constitutional rights when a court was reviewing a fit parent's decision regarding the social activities of her child, much as the *Pollock* test involves a court in reviewing a presumptively fit parent's decision regarding the social activities of her child. The plurality opinion in *Troxel* states that the fundamental constitutional right of parents to guide the upbringing of their children mandates "a presumption that fit parents act in the best interests of their children." *Id.* at 68, 120 S.Ct. 2054. The *Pollock* test reverses this presumption by placing the burden of proof on the parent to demonstrate that his motives for recording his child's conversation were proper and based on objectively reasonable concerns. Thus, the *Pollock* test is [399 S.C. 564]not viable after *Troxel* at least as to its allocation of the burden of proof.

fastcase

Moreover, I am concerned with the import of the majority's discussion of a child's age and capacity to consent as being relevant to a determination whether a parent's vicarious consent was valid. The majority eschews any bright-line rule based on the minor's age and capacity to consent. Presumably this means that a court reviewing a parent's decision

[732 S.E.2d 870]

to invade the minor's privacy should deem that decision less objectively reasonable the more mature the minor is. But a sliding-scale test provides such little constraint on courts as to transfer nearly limitless discretion to them to override the judgment of a fit parent, in direct contravention of *Troxel*.

Further militating against the adoption of the *Pollock* test, at question here is a statute that, in the absence of an exception, *criminalizes* a parent's recording of his child's conversation with a third party.[11] Thus, under the Wiretap Act the primary adversarial parties are the government and the parent, not the parent and child or the parent and a third party.[12] Under the *Pollock* test, a parent cannot exercise her fundamental constitutional right to guide the upbringing of her child without risking criminal penalty should a court disbelieve her stated motives, disagree with her assessment of the threat posed by the particular circumstances, or find that the child's age or capacity to consent sufficiently negates the parent's otherwise valid concerns. Such treatment of fundamental rights protected by the Constitution is impermissible. *See, e.g., Casey*, 505 U.S. at 893–95, 112 S.Ct. 2791. The [399 S.C. 565]majority's rejection of a bright-line rule exacerbates the constitutional problem with the good faith test by creating greater uncertainty for parents of maturing but unemancipated minors in discerning the line between protected and criminalized conduct.

In light of the fact that the Wiretap Act criminalizes violations and that the parental right is fundamental under the Constitution, I do not believe there is room for any qualification of the vicarious consent exception. At the very least, the majority's test must be recast in order to place the burden on the party asserting that the parent's consent was invalid to prove that the parent did not act in good faith or in reliance on objectively reasonable concerns.

II.

With regard to Appellant's argument regarding impermissible bolstering, I would note that Appellant has not raised a challenge to the statute on constitutional grounds or challenged the admission of the interviewer's testimony or opinions. Rather, Appellant challenges as improper bolstering the admission of duplicative testimony from the child herself via the videotape. I agree with the majority that the Rules of Evidence recognize the authority of the General Assembly to enact statutes that create exceptions to the evidentiary rules. Rule 101, SCRE. Section 17–23–175 by its terms permits the duplication of a child's testimony through the admission of a video recorded interview in addition to the child's testimony in court. Thus, there is no basis for an improper bolstering argument when prior testimony is admitted pursuant to § 17–23–175, and I agree with the majority that the trial judge did not abuse his discretion when he admitted the videotaped interview.

For the reasons set forth above, I would hold that parental vicarious consent satisfies the Wiretap Act's consent exception for all fit parents of unemancipated minors regardless of the minor's age or capacity to consent. I would also modify the discussion of admissibility under § 17–23–175. Because I agree with the result reached by the majority on each issue, I concur in the judgment.

Acting Justice EUGENE C. GRIFFITH, JR., concurs.

Notes:

fastcase

[1] The judge who granted the motion to suppress was not the judge who presided over the trial.

[2] "It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State." 18 U.S.C.A. § 2511 (2006).

[3] In fact, prior to the adoption of the Wiretap Act, this Court's jurisprudence relied on federal courts' interpretations of the Federal Act in permitting the recording of a telephone conversation where only one party to the conversation consented. *See Mays v. Mays,* 267 S.C. 490, 229 S.E.2d 725 (1976) (holding that one party to a telephone conversation may lawfully record the conversation without the other party's knowledge or consent, and subsequently disclose it); *State v. Andrews,* 324 S.C. 516, 479 S.E.2d 808 (Ct.App.1996) (where one party consents to a recording, it does not violate a person's right to privacy).

[4] Appellant's argument rests in part on various federal courts' rejection of the inter-spousal consent doctrine, which permits one spouse to intercept an electronic communication of the other spouse. *See e.g., Pritchard v. Pritchard,* 732 F.2d 372, 373 (4th Cir.1984) (finding no exception exists under the federal wiretapping statute for instances of willful, unconsented to electronic surveillance between spouses). However, the fact that there is no inter-spousal consent exception does not preclude an adoption of a parent-child vicarious consent exception. Moreover, we view the vicarious consent doctrine as a natural consequence of the unique relationship of parent and child. The doctrine's adoption is far more compelling and justifiable than the inter-spousal consent, as fundamentally different considerations are implicated. The United States Supreme Court and this Court have held it is "the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *Troxel v. Granville,* 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000); *Camburn v. Smith,* 355 S.C. 574, 586 S.E.2d 565 (2003) (citing *Troxel* and stating "[i]t is well-settled that parents have a protected liberty interest in the care, custody, and control of their children"). Furthermore, parents have a duty to protect their child because children "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them." *Bellotti v. Baird,* 443 U.S. 622, 635, 99 S.Ct. 3035, 61 L.Ed.2d 797 (1979).

[5] S.C.Code Ann. § 17–30–110 states: "The motion [to suppress] must be made before the reviewing authority and must be decided on an expedited basis." The "reviewing authority" is defined as "a panel of three judges of the South Carolina Court of Appeals designated by the Chief Judge of the South Carolina Court of Appeals." S.C.Code Ann. § 17–30–15(9).

[6] Although we recognize the fundamental right of parents to make decisions concerning the care, custody, and control of their children, we also recognize, as does the concurrence, that such right is not without limits. As the concurrence states, "constitutional protection does not confer on parents an unlimited right to control their children." While we agree, in the abstract, with the concurrence's sweeping recognition of parents' fundamental right to make decisions concerning the welfare of their children, we must confront the issue in the context presented and not venture into areas never raised, argued or briefed by any party. Appellant argues only that the Wiretap Act does not provide for vicarious consent; we have not been presented with a

fastcase

challenge or discussion of the viability of *Pollock* post-*Troxel*. Assuming that issue were squarely before us, we would adhere to the *Pollock* doctrine in this case. In this criminal case against the Appellant father, we are presented with one parent, Mother, vicariously consenting to recording her child's telephone conversation with the other parent, Appellant. In the context where one parent vicariously consents to record a child's electronic communication with the other parent, we believe the *Pollock* doctrine, by imposing a good faith standard linked to the child's best interest, sets forth a proper and reasonable limitation on a parent's right to make decisions concerning the child.

[7] We recognize that the State sought on direct examination to venture into the forbidden area of improper bolstering, but Appellant's objections were promptly sustained.

[8] The majority believes that consideration of the *Pollock* test's viability post-*Troxel* is not appropriate because this issue has not been raised by any party. I do not believe we can avoid considering the implications of *Troxel* on this basis while also explicitly adopting and applying a particular test without qualification. Avoiding Constitutional issues not raised and argued could be dealt with by holding that even if the *Pollock* test is unconstitutionally restrictive, its demands would be met in this case. Moreover, I would respectfully urge that the majority's conclusion that it would adhere to the *Pollock* test after consideration of *Troxel* based on its view that the good faith standard is "a proper and reasonable limitation" under these circumstances is an interest-balancing test of the sort inappropriate for treatment of fundamental rights.

[9] *See, e.g.*, Benjamin Shmueli and Ayelet Blecher–Prigat, *Privacy for Children*, 42 Colum. Hum. Rts. L. Rev. 759, 763, 793, 794 (Spring 2011) (surveying American jurisprudence and concluding that privacy rights "do [ ] not exist for children vis-a-vis their parents"; noting that even the U.N. Convention for the Rights of the Child, "which is the most comprehensive legal document ever written on children's rights, and which brought more than twenty countries around the world to adopt a ban on parental corporal punishment and to grant a plethora of children's rights, has not clarified this children's right"; and acknowledging that legal intervention in this area poses a significant risk of damaging families and "must be very delicate").

[10] In *Troxel v. Granville*, a Washington state statute permitted any party to petition for visitation rights and permitted the court to award visitation rights if it concluded that they were in the child's best interest without according any deference to the parent's judgment. The Court found that a mother's substantive due process rights were violated when the state court awarded visitation to the children's paternal grandparents based on its disagreement with the mother regarding the appropriate amount of visitation.

[11] A person who violates the provisions of the South Carolina Wiretap Act must be imprisoned not more than five years or fined not more than five thousand dollars, or both. S.C.Code Ann. § 17–30–50 (Supp.2010).

[12] The issue typically arises in cases that do not involve the state attempting to prosecute a parent, such as in the present case, in which a third party seeks to have evidence excluded as obtained in violation of the Wiretap Act. The fact that the issue may be raised by a third party does not alter my analysis for two reasons. First, our interpretation of the consent exception will apply in all contexts. Second, one party to a protected communication has no expectation of privacy under the Wiretap Act if the other party consents to recording or disclosure. Thus, the third party's interest in nondisclosure has no bearing on the question whether a parent may vicariously consent on behalf of his child.

fastcase

Law Offices of Richard G. Whiting, P.A. - Time Entry

Date Start: 12/15/2022 | Date End: 1/4/2023 | Clients: Walker, Sarah | Matters: | Users: All | Client Type: All | Matter Type: All | Location: All | Billing Method: All | Paid Status: All | Group By: Matter

Date	Client	Matter Type	User	Activity	Description	Billable Time	Total Time	Billable Flag	Hourly Rate	Billable Amt
Non-Matter Related										
12/19/2022	Walker, Sarah	Non-Matter Related	Richard Whiting	Telephone Conference	Telephone conference with attorney.	0.25	0.25	Y	$375.00/hr	$93.75
12/20/2022	Walker, Sarah	Non-Matter Related	Richard Whiting	Telephone Conference	Telephone conference with client; Memo to file.	0.25	0.25	Y	$375.00/hr	$93.75
12/21/2022	Walker, Sarah	Non-Matter Related	Richard Whiting	Draft	Draft and redraft Affidavit and Memorandum of Law.	3.00	3.00	Y	$375.00/hr	$1,125.00
12/21/2022	Walker, Sarah	Non-Matter Related	Richard Whiting	Telephone Conference	Telephone conference with attorney; Redraft Memorandum of Law.	0.25	0.25	Y	$375.00/hr	$93.75
					Totals For Non-Matter Related	**3.75**	**3.75**			**$1,406.25**
					Grand Total	**3.75**	**3.75**			**$1,406.25**

STATE OF SOUTH CAROLINA) IN THE FAMILY COURT FOR THE
) THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE)
) Case No.: 2021-DR-23-0394
Sarah Huet de Guerville,) Cross Ref. No.: 2018-DR-23-4502
)
Plaintiff,) **CERTIFICATE OF SERVICE**
)
v.)
)
Brice Huet de Guerville,)
)
Defendant.)

FILED CLERK OF COURT
GREENVILLE, SC
2023 JAN -4 P 4:31
FAMILY COURT

This is to certify that I have served a true copy of the foregoing **Plaintiff's Return to Defendant's Motion to Remove the Guardian *ad Litem* and to Transfer Custody**, this 4th day of January, 2023, by deposit a copy of same in the United States Mail, first class, proper postage affixed, to the Defendant's attorney of record and the Guardian *ad Litem* addressed as follows:

Milford O. Howard, III, Esq.
Post Office Box 9754
Greenville, South Carolina 29604
Attorney for Defendant

Megan Goodwin Burke, Esq.
217 East Park Avenue
Greenville, South Carolina 29601
Guardian *ad Litem*

Elliott Frazier Law Firm, LLC

Jessica F. Dillard, Senior Paralegal

Sworn to me and subscribed before
me this 4th day of January, 2023

Notary Public, State of South Carolina
My Commission Expires: 8/4/31

EXHIBIT 8

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE FAMILY COURT
THIRTEENTH JUDICIAL CIRCUIT

COPY

Sarah Huet de Guerville,

Plaintiff,

vs.

Brice Huet de Guerville,

Defendant.

FILED CLERK OF COURT
GREENVILLE, S.C.
2023 DEC -3 A 8:42
FAMILY COURT

JUDGMENT IN A FAMILY COURT CASE

Docket No. 2021-DR-23-0394
Cross Ref. No.: 2018-DR-23-4502

Submitted by:	**Attorney for** ☒ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant ☐ GAL
Elliott Frazier Law Firm, LLC 601 E. McBee Avenue, Suite 107 Greenville, SC 29601	

DECISION BY COURT (check all that apply)

☒ This action came to trial, hearing or was resolved by consent and an order was rendered.

☐ This action has been dismissed pursuant to ☐ Rule 12(b), SCRCP ☐ Rule 41(a), SCRCP ☐ Rule 43(k), SCRCP ☐ Family Court Benchmark ☐ Other: ____

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court: ____

☐ Additional information for Clerk:____

ORDER INFORMATION

This is a ☒ Temporary ☐ Final order. If Final, does this order end the case? ☐ Yes ☒ No
Support ☐ is not ordered ☐ is ordered, and it is to be paid ☐through the court. ☐ directly to the CP.
Case number under which support is paid if different from this one: ____
This order involves the immediate☐ issuance ☐dismissal of a bench warrant, or ☐ does not apply.
☐ The following motions are ended by this order (include motion filing date): ____
☐ This order adds or dismisses the following parties to this case:
☐dismiss ☐add:____ ☐ dismiss ☐add:____

INFORMATION FOR THE PUBLIC INDEX/TRANSCRIPT OF JUDGMENT (§ 20-3-670(B)(1)) **Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information to enroll, indicate "N/A" in one of the boxes below.**		
Judgment In Favor of (List name(s) below)	**Judgment Against (List name(s) below)**	**Judgment Amount to be Enrolled (List amount(s) below)**
		$
		$
		$
If applicable, describe the property, including tax map information and address, referenced in the order: ____		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the South Carolina Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: title abstractors and researchers should refer to the official court order for judgment details.**

Family Court Judge	Judge Code	Date
Deadra L. Coutts	4141	1-31-23

FOR CLERK OF COURT OFFICE USE ONLY

This judgment was entered on the _____ and a copy mailed first class or placed in the appropriate attorney's box on _____ to attorneys of record or to parties (when appearing pro se) as follows:

Angela E. Frazier, Esq.
601 E. McBee Avenue, Suite 107
Greenville, South Carolina 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

Milford (Chip) O. Howard, III, Esq.
Post Office Box 9754
Greenville, South Carolina 29604

ATTORNEY(S) FOR THE DEFENDANT(S)

Megan Goodwin Burke, Esq.
217 E. Park Avenue
Greenville, South Carolina 29601

Guardian *ad Litem*

_____
CLERK OF COURT

Court Reporter: _____

Custodial Parent (if applicable): _____

STATE OF SOUTH CAROLINA)
) IN THE FAMILY COURT
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

COPY

FILED CLERK OF COURT
GREENVILLE, S.C.
2023 FEB -3 A 8:42
FAMILY COURT

Sarah Huet de Guerville,)
Plaintiff,) **MOTION AND ORDER INFORMATION FORM AND COVERSHEET**

vs.)

Brice Huet de Guerville,)
Defendant.) Docket No. 2021-DR-23-0394
Cross Ref. No.: 2018-DR-23-4502

Plaintiff's Attorney:	Defendant's Attorney:
Elliott Frazier Law Firm, LLC Angela E. Frazier, Esq. Bar. No. 71099 Address: 601 E. McBee Avenue, Suite 107 Greenville, South Carolina 29601 Phone: 864-214-3621 Fax: 864-729-2203 E-mail: afrazier@elliottfrazierlaw.com Guardian *ad Litem*: Megan Goodwin Burke, Esq. Bar No.: 100095 Address: 217 E. Park Avenue Greenville, South Carolina 29601 Phone: 864-233-4566 Fax: 864-751-1649 Email: meg@upstategal.com	Milford (Chip) O. Howard, III, Esq., Bar No. 73855 Address: Post Office Box 9754 Greenville, South Carolina 29604 Phone: 864-233-5672 Fax:864-642-6822 E-mail: howardlawgvilee@gmail.com

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☒ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion:
Estimated Time Needed: Court Reporter Needed: ☐ **YES**/☐ **NO**

SECTION II: Motion/Order Type

☐ Written motion attached
☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff /☐ Defendant — January 27, 2023 Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: $_____
☒ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☒ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other: _____

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE CODE _____ Date: _____ Judge Signature:
CLERK'S VERIFICATION	
Collected by:_____ Date Filed: _____ ☐ MOTION FEE COLLECTED: $ _____ ☐ CONTESTED – AMOUNT DUE: $ _____	

COPY

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	Case No.: 2021-DR-23-0394
Sarah Huet de Guerville,	)	Cross Ref. No.: 2018-DR-23-4502
	)	
Plaintiff,	)	
	)	**ORDER AS TO DEFENDANT'S MOTIONS**
v.	)	**TO REMOVE GUARDIAN *AD LITEM***
	)	**AND TRANSFER CUSTODY**
Brice Huet de Guerville,	)	
	)	
Defendant.	)	
	)	

FILED CLERK OF COURT
GREENVILLE, S.C.
2023 FEB -3 A 8:43
FAMILY COURT

DATE OF HEARING:	January 5, 2023
TRIAL JUDGE:	The Honorable Rochelle Y. Conits
PLAINTIFF'S ATTORNEY:	Angela E. Frazier, Esq.
DEFENDANT'S ATTORNEY:	Milford (Chip) O. Howard, III
GUARDIAN *AD LITEM*:	Megan G. Burke, Esq.
COURT REPORTER:	

This matter came before the Court for a hearing on two of Defendant, Brice Huet de Guerville's, ("Father") motions: (1) Motion to Remove Guardian *ad Litem,* ("GAL"), and (2) Transfer of Custody. Both motions were filed by Father, on October 31, 2022. Plaintiff, Sarah Huet de Guerville, ("Mother"), filed her Returns to both motions on January 4, 2023. The GAL filed a Return to Father's Motion to Remove her on January 4, 2023. The GAL filed an Interim Report on January 5, 2023.

Present for the hearing were the Mother, Mother's attorney, Angela E. Frazier, Father, Father's attorney, Milford (Chip) O. Howard, III, and the GAL, Megan G. Burke.

Prior to hearing the arguments of counsel and comments from the GAL, Father's attorney requested the Court allow Father to withdraw his Motion for a Transfer of Custody. Mother's attorney did not object except as to her request for legal fees and costs required to prepare their defense.

Father's attorney then proceeded with his Motion to Remove the GAL. Father believed that he is entitled to an Order of this Court removing the GAL because she had become unfairly biased against Father. Specifically, Father alleged that the GAL listened to recordings between Father and the minor child that he alleged were illegally recorded by Mother. Father's position was that the GAL

not only listened to these recording and formed certain opinions about Father, but she also shared the alleged illegal recordings with the parties' mediator.

While Father was not asking this Court to determine the legality or illegality of how these recordings were obtained, he desired the Court to make its determination based upon Father's affidavit and his attorney's arguments.

Mother's attorney presented an affidavit of her expert, attorney, Richard G. Whiting, which affidavit alleged that the recordings were not illegally obtained. The GAL referenced her Return, and Interim Report for the Court to review.

No one provided copies of the alleged recordings for the Court's review.

Based upon the motions, affidavits, exhibits, representations of counsel, and the laws of this State, the Court finds the following as to the relief sought by both parties:

1. This Court finds Father's request to withdraw his Motion to Transfer Custody is not objected to by Mother, except as to her request for legal fees and costs incurred to defend against the Father's motion; and

2. This Court finds that the Final Order for Divorce filed on February 20, 2020, ordered that the "parties agree to share joint legal custody of their Minor Child with primary placement with [Mother]. On all major parenting decisions, the parties will consult and use good faith efforts to resolve differences, but if the parties are unable to agree on the major parenting decision, [Mother] will have the right to make the final decision"; and

3. This Court also finds that it cannot rule upon Father's Motion to Remove the GAL until there is a finding that the recordings are were either lawfully obtained or not; and

4. This Court finds that it does not have subject matter jurisdiction to determine the alleged lawful or unlawful obtaining or use of the referenced recordings; and

5. This Court is further informed and believes that the South Carolina Court of Appeals has original jurisdiction to determine whether recordings of phone conversations are obtained legally or not pursuant to S.C. Code Ann. § 17-30-110 et seq.

Therefore, this Court orders that Father's Motion to Transfer Custody is withdrawn subject to Mother's request for legal fees and costs;

This Court further orders Father, as the alleged aggrieved party, to file a Motion to Suppress to the South Carolina Court of Appeals as set forth in S.C. Code Ann. § 17-30-110.

This Court further finds that if Father does not timely avail himself of the remedy set forth in S.C. Code Ann. § 17-30-110 et seq. within thirty (30) days of the date this Order is filed with the Court, Mother may seek clarification of the alleged propriety of the recordings by filing her own application or motion to the South Carolina Court of Appeals. Upon receipt of a ruling from the South Carolina Court of Appeals, this Court will determine if this hearing needs to be reopened of if the Court has sufficient information upon which to rule on all motions, matters, and issues.

Finally, this Court orders that both parties' requests for legal fees and costs as to both motions shall be held in abeyance until further order of this Court.

AND, IT IS SO ORDERED.

Rochelle Y. Conits
Family Court Judge

February 1-31-23, 2023
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
) IN THE FAMILY COURT
) THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE)
)
)
Sarah Huet de Guerville,) **SUPPORT INFORMATION SHEET**
Plaintiff,)
vs.)
)
Brice Huet de Guerville,)
Defendant.) Docket No. 2021-DR-23-0394
Cross Ref. No.: 2018-DR-23-4502

Check appropriate box:

☐ No spousal or child support ordered. (No other items should be completed.)

☐ If support is ordered to be paid directly or through the Court, **you must complete BOTH pages** (as applicable).

***** CHILD SUPPORT SHALL BE PURSUANT TO THE FINAL ORDER UNTIL FURTHER ORDER OF THIS COURT****

Obligation Type	**Child Support**	**Spousal Support**	**Other**
Amount	$	$	$
Collection Costs (5%)	$	$	$
Payment Frequency			
Payment Start Date			
Weekly	☐	☐	☐
Bi-weekly	☐	☐	☐
Monthly	☐	☐	☐
Semi-monthly (1st & 16th)	☐	☐	☐
Semi-monthly (15th & 30th)	☐	☐	☐
Total Arrearage Amount	$	$	$
Wage Withholding			
Required by S.C. Code Ann. §63-17-1420	☐	☐	☐
Ordered	☐	☐	☐
Not Ordered	☐	☐	☐

Name of Custodial Parent (if applicable): _____

*******OBLIGOR'S DESIGNATION STATEMENT: PAYMENT OF COURT COSTS*******

I acknowledge that S.C. Code Ann. § 63-3-370 requires that I pay and the Family Court has ordered that I pay court costs in an amount equal to five (5) percent of any support payment made through the Clerk of Court or the centralized wage withholding system. I owe and will pay these costs in addition to my support obligation.

To meet my duty to pay court costs, I designate an amount equal to five (5) percent of the support payment I make to be applied and distributed in payment of court costs, not support.

I acknowledge the Clerk of Court or, if payments are withheld from my income, the centralized wage withholding system to deduct the fee from every payment made by me or on my behalf.

I acknowledge that should I not pay the full amount due, that an arrearage will accrue and that the Clerk of Court may take enforcement action against me for failure to pay all amounts ordered by the Court.

If an amendment to the law changes the amount of court costs, this designation authorizes deduction of court collection costs in the amount established by law.

Date: _____, 20____ _____

Signature of Person paying Support**

NOTE TO CLERK: FILE AND PROCESS THIS FORM EVEN IF SIGNATURE OF PERSON PAYING SUPPORT IS NOT PROVIDED.

IDENTIFYING INFORMATION ON THIS PAGE

A. OBLIGEE/PAID TO:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____ Phone: _____

SSN: _____ Gender: _____ Race: _____ Height:_____ Weight:_____

Date of Birth: _____ Scars: _____

Driver's License Number: _____ Driver's License Issuing State: _____

Employer: _____

Employer Address: _____

B. OBLIGOR/PAID BY:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____ Phone: _____

SSN: _____ Gender: _____ Race: _____ Height:_____ Weight:_____

Date of Birth: _____ Scars: _____

Driver's License Number: _____ Driver's License Issuing State: _____

Employer: _____

Employer Address: _____

C. CHILDREN

CHILDREN'S NAMES	DATE OF BIRTH	SSN
1.		
2.		
3.		
4.		
5.		
6.		

Jessica F. Dillard — PREPARED BY

Paralegal — TITLE

1-27-23 — DATE

VERIFICATION OF CONSULTATION WITH OPPOSING COUNSEL

TRANSMITTAL TO COUNSEL

Date: January 19, 2023

Re: Order as to Defendant's Motions to Remove the Guardian *ad Litem* and Transfer Custody

Date Order to be sent to opposing counsel, GAL and or pro se party: January 19, 2023

Date Order to be sent to Judge: January 27, 2023

Please review the following proposed Order as to Defendant's Motions to Remove the Guardian *ad Litem* and Transfer Custody, ("Order"), and notify my office of your suggested changes, if any, before the presentation of the date set forth above. In the event there are no changes to be requested, please advise, and I will submit the Order to the Judge prior to the presentation date.

Angela E. Frazier, Esq.
Attorney for Sarah Huet de Guerville

PRESENTATION TO JUDGE FOR SIGNATURE

To: Honorable Rochelle Y. Conits

Date: January 27, 2023

The attached Order was presented to opposing counsel, GAL, (and/or pro se party), on January 19, 2023. It is now being presented to you for your consideration and signature. Please note the following:

_____ Counsel, GAL, (and/or pro se party), responded and approved the Order.

X Changes were requested and have been incorporated into the Order, and this final draft has been approved by Counsel, GAL, (and/or pro se party),.

_____ Counsel, GAL, (and/or pro se party), cannot agree to the final form, and this proposed Order is submitted for your consideration.

_____ Counsel, GAL, (and/or pro se party), has not responded, and this proposed Order is submitted for your consideration.

Angela E. Frazier, Esq.
Attorney for Sarah Huet de Guerville

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Family Court

Family Court Case No. 2021-DR-23-0394

Appellate Case No. 2023-000387

Brice Huet de Guerville, Petitioner,

v.

Sarah Huet de Guerville, Respondent.

AFFIDAVIT OF SARAH HUET De GUERVILLE

The undersigned after being duly sworn, hereby deposes and states:

1. My name is Sarah Huet de Guerville on the pleadings, but I have since remarried, and my name is now Sarah Walker. I state the following under oath and of my own knowledge except where otherwise stated.

2. MANIPULATION, DISPARAGING COMMENTS & DEEP CONCERNS

Brice has been methodical and calculated in his manipulation of Aidan. Throughout this relocation process, which is the current pending action in Family Court, Brice consistently said that I was "stealing/taking/kidnapping" Aidan from him and Aidan's half-sister (Caroline, Brice's daughter from a prior relationship), that I do not care about Brice or Caroline, and that I do not care about their time together. Brice has told Aidan that he does not need to listen to me. Brice consistently tells me that I am selfish and do not care about Aidan's feelings. These are all things Brice has said to Aidan in

front of me or me in front of Aidan and made very clear.

3. LEAD UP AND CONTENTS OF THE MARCH 13, 2021 RECORDING

These issues were persisting prior to our hearing on March 11, 2021, for the relocation. After the court decided I could relocate to Tennessee with Aidan in March of 2021, I was living in a small, two-bedroom apartment where it was legitimately difficult to have a private conversation because of the size of the apartment and how easily the noise carried. That led to me sometimes overhearing conversations or parts of talks between Aidan and his father.

Around the time of the hearing on March 11, 2021, these conversations became more distressing for Aidan and I overheard Brice telling Aidan how disappointed he was in the court's order and discouraging any joy Aidan had about moving to Tennessee. Their conversation became especially alarming on March 13, 2021, and I decided I had to record what I characterize as manipulative, coercive and extremely damaging language from Brice to Aidan.

I could hear and recorded some of the remainder of the conversation between Brice and Aidan and Aidan crying and Brice telling Aidan that he (Aidan) was hurting his (Brice's) feelings and asking if Aidan lied to him about not wanting to go to TN. I heard Brice calling Kevin, my fiancé at the time now my husband, a liar for telling Aidan he would still get to see him (his Father) a lot still. Brice told Aidan that if he wanted to go to TN, then Brice and Caroline would be heartbroken and they wouldn't stop crying. Brice told Aidan that it wasn't fair that I get to talk to Aidan every day and try to get him to think it will be okay in TN. Aidan kept asking his father to stop the conversation but Brice persisted, telling Aidan that he was keeping a secret about wanting to go to TN from his father. Brice started coaching and warning Aidan that the court lawyer was going to come talk to Aidan and ask him what he wanted. Brice told Aidan that if he told the lawyer that he wanted to go to TN, Brice, and Aidan's sissy (sister) would be heartbroken. So, Aidan couldn't tell "them" that he wanted to go to TN. Aidan was full on crying and away from the

phone, trying to leave the conversation. Brice said that if Aidan hung up, he would be in huge trouble and forced Aidan to tell him what he wanted. Aidan started bawling more and was silent. Brice said that he was spending a lot of money to protect Aidan from moving to TN. Aidan said he wanted both. Brice continued to press the issue and push his agenda on Aidan through Aidan's sobbing and pleas to get off the phone and that he just wanted both to be ok.

I had to record this conversation because it was harming our son and I knew that the court-appointed advocate for Aidan needed to be aware of the extent of the liberty at which Brice was sharing his own desires, feelings, and distain for the court orders with Aidan. Also, how brazenly Brice was coaching his son and manipulating his feelings and actions. This was the first time that I recorded Brice's conversation with Aidan.

I believe that these emotionally destructive conversations that Brice has had and I have a firm suspicion continues to have with Aidan cause my son a lot of excess stress, anxiety, and grief.

4. LEAD UP AND CONTENTS OF THE JUNE 30, 2021 RECORDING

Aidan and I relocated to Tennessee in June of 2021. On June 15, 2021, Judge Roper denied Brice's motion to reconsider, alter, or amend the temporary relocation order and clarified that Brice and I must meet halfway between our residences for pickups and drop-offs.

During this time, Brice and I were discussing visitation dates for the summer. We had finalized dates and he had plans to take Aidan to Disney World in July 2021. On June 28-29, 2021, I informed Brice of the signed court order and he confirmed receipt, and he accused me of wanting to get him fired from his job. I do not know what Brice told Aidan during the conversations they had these first days following Brice receiving the latest signed order. But I do know that Aidan became visibly distressed at this time following his conversations with his father, worried that he would not be able to go on vacation with his dad and sister. I had not had any conversations with

Aidan about the messaging from Brice at this time, so there would be no reason for Aidan to be upset other than what his father was telling him.

Due to Aidan's distress and emotion, Brice's history of inappropriate and damaging remarks to Aidan and the text messages that Brice was sending to me at this time, I was extremely suspicious that Brice was again engaging in inappropriate and harmful communications with Aidan. I needed to record this conversation to understand and be able to help the worry, distress, and sadness that Aidan was feeling at this time. Following this conversation, Aidan was crying, begging me to let him go on vacation with his father and sister. My concerns were confirmed in the recording.

On the recording, Brice said that he could not take Aidan on vacation with them unless I drove to Greenville. Brice told Aidan that I was able to drive him to Greenville, but that I just wouldn't do that for Aidan. Aidan said that he wanted to hang up and that he did not like talking about this stuff. Brice said that he was just explaining what was going to happen. Aidan said that he just wanted to go on the vacation. Brice said that I wasn't going to bring Aidan there, so Aidan may not get to go. Brice also said that he may lose his job if he had to drive halfway. Aidan started crying.

5. LEAD UP AND CONTENTS OF THE JULY 2, 2021 RECORDING

Brice repeatedly said he would lose his job, said that he couldn't drive the distance because his car was a lease, that I was being cruel and selfish, and that I didn't care if this decision hurt him or Aidan. Brice threatened further litigation, said in text messages that my cruelty disgusted him and that Aidan deserved better than me. I continued to try and work with him on a good date and time for him to get Aidan, saying it could be after work hours at a reasonably flexible date and

time to better accommodate Brice's work schedule. I wanted what was best for Aidan and was trying my best to make sure Aidan was able to be with his father for visitation.

Aidan continued to be extremely upset, distressed, and worried after his conversations with his father. I was very worried about Aidan and the affects that these conversations were having on him emotionally and psychologically. Myself, Aidan, Kevin, and his kids traveled to my mother and father's house on July 2, 2021. Due to Aidan's ongoing distress about the trip and Brice's previous inappropriate conversations with Aidan, I recorded their conversation when we got to my parent's home. Following that conversation, Aidan was also in tears, conflicted and hurt. It seemed as if he was closing off from me and confused about who to trust and what would happen. It was so heartbreaking to see this happening to my son and to be under court order to continue to have to allow these conversations to even happen.

The recording confirmed the worst of my fears. On this recording, Brice told Aidan that Brice had been crying all day because his joys about Disney were crushed because Aidan's mom (me) doesn't care about them. Brice said that he had offered to get Aidan during the weekend, but I thought the birthday party was more important than Disney. Brice asked Aidan if he would rather do the plans with his mom (me) or if he would rather go to Disney with him. Brice continued to tell Aidan how wonderful Disney would be and then that the only way Aidan could go is if his mom (me) would do as Brice wished.

Aidan told Brice that I would take him to Disney next weekend, that I was sad for him and said I wanted to take him to Disney. To clarify, I said that we would go at some point and it wouldn't be his only chance to go to Disney. But Brice took this word for word from his at the time 7 year-old-son. Brice then told Aidan that he hated his mother (me). Brice said that was such a mean thing for me to do. Aidan said he was very sad and very mad. Brice instructed Aidan not

to speak to me again until I took him to see his dad. Aidan said that would just be rude. But Brice said that when he was mad at someone, he just wouldn't talk to them. Aidan said this was a very frustrating and weird talk and he just wanted to hang up. Brice made him stay on the phone and instructed Aidan what to specifically say to me and that if I said no, he would just not talk to me.

Brice also told Aidan that I probably want Brice to lose his job and have to move to find a new job and have Aidan all to myself so he would never have to see his daddy. Aidan said he would be mad, not looking at me or talking to me.

6. REASONS FOR MAKING RECORDINGS

I made the recordings out of a necessity and desire to help my son and stop Brice from continuing to harm Aidan's wellbeing. Disparaging me, discussing the court case in such a manner, and manipulating Aidan's feeling by inciting guilt and stress, are all extremely inappropriate, not to mention in clear violation of the Order. It's not healthy at the very least, and I believe that it's been very damaging to Aidan. I request that this court deny the motion to suppress these recordings. These recordings were made purely out of a need to protect my son, following moments and times of distress and deep anxiety. These recordings prove that Brice is willfully refusing to abide by the restraining orders set forth by the court and I pray they will help to allow my son protection from having to endure this kind of behavior in future conversations. I am very concerned that this continues through to today in Aidan's conversations with his father.

FURTHER DEPONENT SAYETH NOT.

SWORN TO BEFORE ME
This 17 day of March 2023

Patricia A Myers
Printed Name of Notary: Patricia A Myers
Notary Public For TN
My Commission Expires: 8-18-2026

Sarah Huet de Guerville
SARAH HUET DE GUERVILLE
NOW SARAH WALKER
Sarah Walker

PATRICIA A MYERS
STATE OF TENNESSEE NOTARY PUBLIC
HOUSTON COUNTY

RECEIVED
Mar 17 2023
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Family Court

Family Court Case No. 2021-DR-23-0394

Appellate Case No. 2023-000387

Brice Huet de Guerville, Petitioner,

v.

Sarah Huet de Guerville, Respondent.

PROOF OF SERVICE

I certify that on this date, March 17, 2023, I served a copy of the **Return to Motion to Suppress Recorded Communications** on counsel of record to their addresses, and by email and/or USPS by affixing proper postage and putting into the U.S. Mail:

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Greenville, S.C. 29601
meg@upstatelegal.com

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Attorney for Respondent

March 17, 2023
Columbia, SC

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Certified SC Circuit Court Mediator **Certified SC Family Court Mediator**

March 17, 2023

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SC Court of Appeals

BY ELECTRONIC FILING TO ctappfilings@sccourts.org

Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629Columbia, SC 29111

RE: Huet de Guerville v Huet de Guerville
Appellate Case No. 2023-00387

Dear Ms. Kitchings:

I am transmitting by electronic filing the separately attached Return to Motion to Suppress, Proof of Service, and Affidavit of Sarah Huet de Guerville in the above referenced matter.

Sarah Huet de Guerville, is prepared to submit the actual recordings at issue upon request of the Court.

Please let me know if I am in error as to any of this or if you have any questions.

Sincerely,

s/Brian Dumas

cc: all by email as below
Megan Goodwin Burke, meg@upstatelegal.com
Milford Oliver Howard, III howardlawgville@gmail.com
Angela Frazier, afrazier@elliottfrazierlaw.com
Scarlet B. Moore, scarlet28@msn.com