

Bernita Jefferson

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

DF-14-20147

CAUSE NO. DF-_____**IN THE MATTER OF
THE MARRIAGE OF**

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IN THE DISTRICT COURT

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**CRYSTAL DIONA MARTIN AND
STEPHEN LUKE MARTIN**

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_____ JUDICIAL DISTRICT**AND IN THE INTEREST OF
STEPHEN MAX MARTIN AND
CHARLES MATTHEW MARTIN,**

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§

§

CHILDREN

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DALLAS COUNTY, TEXAS***Discovery Level***

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

Parties

This suit is brought by **CRYSTAL DIONA MARTIN**, Petitioner (hereinafter sometimes referred to as "**Petitioner**"), who currently resides at 1409 Windsor Way, Rowlett, Texas 75088. The last three numbers of **CRYSTAL DIONA MARTIN's** driver's license number are 323. The last three numbers of **CRYSTAL DIONA MARTIN's** Social Security Number are 850.

STEPHEN LUKE MARTIN is Respondent (hereinafter sometimes referred to as "**Respondent**") and he resides in Dallas County, Texas.

Domicile

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

Service

Citation of Respondent by substitute service is necessary for the reason the parties home located at 4501 Tarry Drive, Garland, Texas 75043, mysteriously burned to the ground on October 16, 2014 and Petitioner is uncertain of his interim address. A method of service as likely as publication to give **STEPHEN LUKE MARTIN** actual notice is by serving citation and notice upon his Mother, **VICTORIA MARTIN**, who resides at 5209 Burlingame Dr., Garland, TX 75043.

Protective Order Statement

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

Dates of Marriage and Separation

The parties were married on or about August 17, 2007 and ceased to live together as husband and wife on or about October 10, 2014.

Grounds for Divorce

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

Notice Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure

Notice is hereby given to you, **STEPHEN LUKE MARTIN**, that **CRYSTAL DIONA MARTIN** intends to use against you in any pretrial proceeding or at trial all documents produced by **STEPHEN LUKE MARTIN** to **CRYSTAL DIONA MARTIN** in response to written discovery. This notice is given to you within ten (10) days after you, **STEPHEN LUKE MARTIN** have actual notice that all documents produced by you to **CRYSTAL**

DIONA MARTIN in this lawsuit, will be offered at trial, thereby satisfying the requirement of authentication or identification as a condition precedent to admissibility pursuant to the Texas Rules of Evidence, Rule 901.(a). This notice is given pursuant to Rule 193.7 of the Texas Rules of Civil Procedure.

Children of the Marriage

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

Name: **STEPHEN MAX MARTIN**

Sex: Male

Birth date: October 22, 2008

Home State: Texas

Name: **CHARLES MATTHEW MARTIN**

Sex: Male

Birth date: December 20, 2010

Home state: Texas

There are no court-ordered conservatorship, court-ordered guardianships, or other court-ordered relationships, affecting the children, the subjects of this suit.

Children's Property

No property of consequence is owned or possessed by the subject children.

Health Insurance Information

Information required by section 154.181(b) of the Texas Family Code is as follows:

Insurance Company: **MEDICAID**

Policy Number: To Be Determined

Insured: N/A

Cost of Premium: N/A

Conservatorship and Support

Petitioner believes that Petitioner and Respondent will enter into a written agreement containing provisions for conservatorship of, possession of, access to, and support of the children. If such an agreement is made, Petitioner requests that the Court approve that agreement and adopt it as the Court's order. If such an agreement is not made, Petitioner requests the Court to make orders for conservatorship of, possession of, access to, and support of the children.

The appointment of Petitioner and Respondent as joint managing conservators would not be in the best interest of the children. Petitioner, on final hearing, should be appointed sole managing conservator, with all the rights and duties of a parent sole managing conservator as those rights and duties are delineated in section 153.132 of the Texas Family Code. Petitioner should be designated as the parent sole managing conservator who has the exclusive right to designate the primary residence of the children without regard to geographic location. Respondent should be ordered to make payments for the support of the children and to provide medical child support in the manner specified by the Court. Petitioner requests that the payments for the support of the children survive the death of Respondent and become the obligation of Respondent's estate.

The appointment of Petitioner as the parent sole managing conservator is in the best interest of the subject children for the reason that Respondent is registered as a sex offender under chapter 62 of the Code of Criminal Procedure. Petitioner requests the Court to deny Respondent access to the subject children. Alternatively, if the Court finds that awarding Respondent access to the children would not endanger the children's safety or emotional welfare and would be in the best interest of the children, Petitioner requests that the Court render a possession order that is designed to protect the safety and well-being of the children, including but not limited to ordering that the periods of access be continuously supervised by an entity or person chosen by the

Court and ordering that the exchange of possession of the children occur in a protective setting

Petitioner requests the Court to determine whether or not Respondent can in fact be awarded unsupervised visitation under the present circumstances and provisions of his current registration requirements, and whether there is a risk of abduction of the children by Respondent and to take such measures as are necessary to protect the children.

The requested orders are in the best interest of the children.

Division of Community Property

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

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

- a. fault in the breakup of the marriage;
- b. fraud on the community;
- c. the spouse to whom conservatorship of the children is granted;
- d. needs of the children of the marriage;
- e. wasting of community assets by Husband;
- f. reimbursement due the community estate;
- g. actual fraud committed by a spouse; and
- h. constructive fraud committed by a spouse.

Separate Property

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

Request For Permanent Injunction

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

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

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

Stalking the Petitioner or the subject children.

Threatening Petitioner or the subject children with imminent bodily injury.

Disturbing the peace of the children or of another party.

Removing the children from Petitioner's possession, acting directly or in concert with others.

Withdrawing the children from enrollment in the school or day-care facility where the children are presently enrolled.

Hiding or secreting the children from Petitioner.

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

Breach Of Fiduciary Duty

Respondent, as Petitioner's spouse, had a fiduciary relationship with, and a fiduciary duty to, Petitioner. As a result of their fiduciary relationship, Petitioner reposed a special confidence in Respondent, and Respondent had a duty in equity and good conscience to act in good faith and with due regard for Petitioner's interests.

Respondent has defrauded Petitioner by breaching a legal and/or equitable duty owed Petitioner as a result of their fiduciary relationship. That breach is fraudulent because, irrespective of Respondent's moral guilt, the breach had a tendency to deceive Petitioner and to violate Petitioner's confidence or to injure the public interest. Respondent's actions damaged Petitioner inasmuch as Respondent has recklessly or intentionally spent, wasted, and/or damaged and destroyed thousands of dollars from the community estate, in direct violation of Respondent's duty as co-manager of the community estate, by (a) causing directly and/or indirectly the destruction of certain real property and personal property owned by the parties and (b) providing continued support to certain members of his extended family for the duration of the marriage to the detriment of the parties and the subject children. Petitioner requests the Court to consider Respondent's breach of fiduciary responsibility to Wife in its consideration of disproportionate division of the parties' property and/or debts at final hearing in this matter.

Request For Temporary Orders

Petitioner requests that the Court, after notice and hearing, to make temporary orders and issue any appropriate temporary injunctions for the protection, safety, and welfare of the children of the marriage as deemed necessary and equitable, including but not limited to the following:

Appointing Petitioner temporary sole managing conservator of the subject children with all the rights and duties of a sole managing conservator;

Designating Petitioner as the conservator who has the exclusive right to designate the primary residence of the children without regard to geographic location;

Ordering Respondent to pay child support, to provide medical child support, and 50% of the children's uninsured medical expenses while this case is pending;

Granting Petitioner exclusive possession of the subject children until further orders from the Court;

Prohibiting Respondent from removing the subject children from the possession of Petitioner until further orders from the Court;

Denying Respondent possession and access to the children, or in the alternative ordering that the periods of possession and access be continuously supervised;

Ordering a determination of whether there is a risk of abduction of the children by Respondent;

Ordering a determination of whether or not Respondent can in fact be awarded unsupervised visitation under the present circumstances and provisions of his current registration requirements;

Ordering the parties to attend, participate, and successfully complete counseling to determine whether Respondent poses a threat to the safety and wellbeing of the children;

Ordering the preparation of a social study, into the circumstances and condition of the children and of the home of any person requesting managing conservatorship or possession of the children;

Ordering Respondent to undergo a psychological evaluation and to attend any recommended counseling.

Amended Dallas County Family District Courts General Orders

The **Amended Dallas County Family District Courts General Orders** are attached hereto as **Exhibit "A"** and are fully incorporated by reference herein for all purposes.

Attorney's Fees, Expenses, Costs, and Interest

It was necessary for **Petitioner** to secure the services of **J. Diane Cummings**, a licensed attorney to prosecute this suit and protect the

rights of **Petitioner** and the subject children. **STEPHEN LUKE MARTIN** should be ordered to pay reasonable attorney's fees, expenses, and costs, as compensation for **J. Diane Cummings**, and judgment should be rendered in favor of **J. Diane Cummings** against **STEPHEN LUKE MARTIN**; or, in the alternative, such reasonable attorney's fees, expenses and costs should be taxed as costs and ordered paid directly to **J. Diane Cummings**. In addition, Petitioner requests that, in the event of an appeal of this case to the Court of Civil Appeals or an Application for Writ of Error to the Texas Supreme Court, **J. Diane Cummings** be awarded further judgment against **STEPHEN LUKE MARTIN** for attorney's fees incurred thereby, or alternatively, that such additional attorney's fees and expenses be taxed as costs and ordered paid directly to **J. Diane Cummings**. Respondent requests post-judgment interest as allowed by law.

Prayer

Petitioner prays that citation and notice issue as required by law and that the Court grant the relief requested hereinabove.

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

Petitioner requests that the Court grant the temporary relief requested.

Petitioner prays for such other and further relief, both general and special, at law and in equity, to which Petitioner shows herself justly entitled to receive, together with all costs of court.

Respectfully submitted,

GARZA-CUMMINGS LAW FIRM

3526 Lakeview Parkway

Suite B, Box 226

Rowlett, Texas 75088

Email jdcummingsjd@yahoo.com

Telephone 214.735.6047

Fax 972.475.2870

/s/ J. Diane Cummings

J. DIANE CUMMINGS

Texas Bar Number 24004499

Attorney for **CRYSTAL DIONA MARTIN**

VERIFICATION

**I certify that the information in the foregoing
pleading is true and correct.**


CRYSTAL DIONA MARTIN

F2013/1

**AMENDED DALLAS COUNTY FAMILY DISTRICT COURTS
GENERAL ORDERS**

(Revised April 1, 2013)

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

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

1. **NO DISRUPTION OF CHILDREN.** Both parties are **ORDERED** to refrain from doing the following acts concerning any children who are subjects of this case:
 - 1.1 Removing the children from the State of Texas, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.
 - 1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court.
 - 1.3 Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.
 - 1.4 Disturbing the peace of the children.
 - 1.5 Making disparaging remarks regarding the other party in the presence or within the hearing of the children.
2. **PROTECTION OF FAMILY PETS OR COMPANION ANIMALS.** Both parties are **ORDERED** to refrain from harming, threatening, interfering with the care, custody, or control of a pet or companion animal, that is possessed by a person protected by this order or by a member of the family or household of a person protected by this order.
3. **CONDUCT OF THE PARTIES DURING THE CASE.** Both parties are **ORDERED** to refrain from doing the following acts:
 - 3.1 Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner to communicate with the other party, whether in person, by telephone, or in writing.
 - 3.2 Threatening the other party in person, by telephone, or in writing to take unlawful action against any person.
 - 3.3 Placing one or more telephone calls, at an unreasonable hour, in an offensive or repetitious manner, without a legitimate purpose of communication, or anonymously.
 - 3.4 Intentionally, knowingly or recklessly causing bodily injury to the other party or to a child of either party.
 - 3.5 Threatening the other party or a child of either party with imminent bodily injury.

Standing Order re: Children, Property and Parties-Page -1

Form: SOCPP 04/13

EXHIBIT "A"

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

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

- 4.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.
- 4.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.
- 4.3 Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.
- 4.4 Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.
- 4.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real property, and whether separate or community, except as specifically authorized by this order.
- 4.6 Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by this order.
- 4.7 Making withdrawals from any checking or savings account in any financial institution for any purpose, except as specifically authorized by this order.
- 4.8 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.
- 4.9 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order.
- 4.10 Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party.
- 4.11 Taking any action to terminate or limit credit or charge cards in the name of the other party.
- 4.12 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.
- 4.13 Discontinuing or reducing the withholding for federal income taxes on wages or salary while this suit is pending.
- 4.14 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.
- 4.15 Excluding the other party from the use and enjoyment of the other party's residence.
- 4.16 Opening or redirecting the mail addressed to the other party.

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

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

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

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

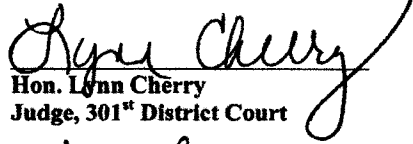
EFFECT OF OTHER COURT ORDERS. If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court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

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


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

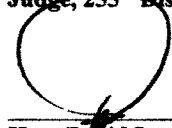
THIS DALLAS COUNTY AMENDED STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF PARTIES SHALL BECOME EFFECTIVE ON APRIL 1, 2013.

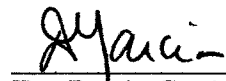

Hon. James Martin
Judge, 254th District Court

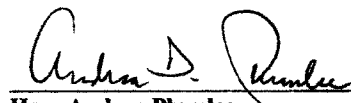

Hon. Lynn Cherry
Judge, 301st District Court


Hon. Lori Hockett
Judge, 255th District Court


Hon. Tena Callahan
Judge, 302nd District Court


Hon. David Lopez
Judge, 256th District Court


Hon. Denise Garcia
Judge, 303rd District Court


Hon. Andrea Plumlee
Judge, 330th District Court