

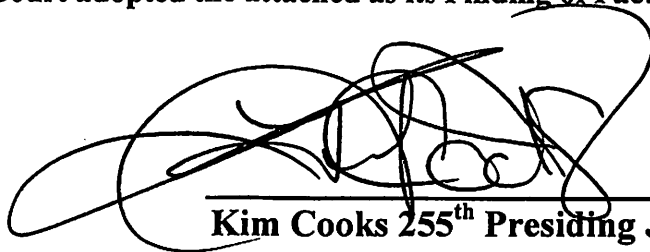


JUDGE KIM COOKS
THE 255TH JUDICIAL DISTRICT COURT

ADOPTED FINDINGS OF FACTS AND CONCLUSIONS OF LAW
February 27, 2017
ITIO JA.D.Y. and JU.D.Y DF-15-09887

On February 10, 2017 the Court adopted the attached as its Finding of Facts and Conclusions of Law.

February 27, 2017



Kim Cooks 255th Presiding Judge

- 14) Before the marriage, Respondent lied to Petitioner about working for Fortune 500 companies.
- 15) Before the marriage, Respondent lied about his employment.
- 16) Before the marriage, Respondent lied to Petitioner about his unemployment.
- 17) Before the marriage, Respondent lied to Petitioner about not taking unemployment compensation.
- 18) Respondent lied to Petitioner about taking government assistance.
- 19) Petitioner did not cohabit with Respondent since learning of the fraud and lies listed above in No. 3 through 18.

No Community Property

- 20) Petitioner and Respondent did not acquire community property.
- 21) No community property was created during the marriage.
- 22) The Petitioner and Respondent had signed a Premarital Agreement before marriage.
- 23) All assets in Petitioner's name are her separate property.
- 24) All debts in Respondent's name are his own debts.

Children

- 25) Petitioner and Respondent had 2 children, James Damon Younger and Jude Daniel Younger, boys born May 7, 2012 (collectively, the "Boys" or the "Children").
- 26) Petitioner has two prior children, Zoe Georgulas and Sydney Georgulas (collectively the "Girls"). The Girls are not before the Court in this matter.

Child Support

- 27) Respondent was employed at the time of trial.
- 28) At the time of trial, Respondent earned \$125,000.00 per year.
- 29) The cost of health insurance for the children under the health insurance provided by the Mother is \$208.00 per month for both children.
- 30) The Respondent was regularly voluntarily and involuntarily unemployed during the pendency of this matter.

- 31) As additional child support, respondent was Ordered on June 8, 2016 (Order signed June 22, 2016) to obtain, maintain and pay for health insurance coverage for the Children.
- 32) The cost of such coverage to be \$208.00 per month.
- 33) Respondent failed to obtain, maintain and pay for health insurance for the Children for 4 months (July 2016, August 2016, September 2016 and October 2016) as ordered.
- 34) Respondent is in arrears in the amount of \$832.00 for health insurance for the Children for the period July 1, 2016 through October 31, 2016.
- 35) As additional child support, Respondent was ORDERED on June 8, 2016 (Order signed June 22, 2016) to pay for 25% of the cost of the Spanish School House for the children.
- 36) Respondent failed to timely or fully pay his 25% obligation for the Spanish School House.
- 37) As of the time of trial, Respondent was in arrears in the amount of \$211.85 for unpaid tuition at the Spanish School House.
- 38) As of the time of trial, Respondent was in arrearages for child support in the total amount of \$1,043.00 for unpaid health insurance and unpaid child support to the Spanish School House.

Children

- 39) Respondent engaged in inappropriate and hurtful treatment of the Girls.
- 40) The Girls were good, sweet, hardworking well-mannered children.
- 41) Respondent forced the Girls to do plank push up for extended periods of time while reading the "house rules" until the Girls cried.
- 42) Respondent would lock down the Girls' room and remove all their possession from their rooms and would not let them participate in family activities.
- 43) Respondent would put the Girls in "silent treatment" and they could not talk unless spoken to for many, many days.
- 44) Respondent's actions caused harm to the Girls.
- 45) One of the Girls developed a suicide plan
- 46) The other Girl was cutting herself.

- 47) Based in large part on his treatment of the Girls, Petitioner asked Respondent to move out of the Petitioner's residence.
- 48) Both Girls improved after Respondent moved out of Petitioner's residence.
- 49) Respondent lied to the Petitioner about the Girls.
- 50) The Girls have a very good, safe and healthy relationship with the Boys.
- 51) Respondent failed to co-parent with the Petitioner.
- 52) Petitioner made repeated attempts to co-parent with Respondent.
- 53) Respondent failed to keep any agreements made with Petitioner during Parenting Facilitation sessions.
- 54) Respondent treated the Petitioner and the Girls in a disparaging, derogatory, abusive and insulting manner.
- 55) Respondent is pejorative.
- 56) Petitioner works flexible hours and part-time on some days of the week.
- 57) Petitioner was the primary parent of the Children even before the parties separated.
- 58) Respondent regularly failed to take possession time with the Boys granted to him in Temporary Orders in this matter.
- 59) Respondent regularly failed to take the Boys to school during his periods of possession.
- 60) Respondent regularly failed to allow the Petitioner electronic communication with the Boys.
- 61) Respondent lacked insight into how behaviors by him may be repeated with the Boys.
- 62) Respondent had 3 mattresses in one room on the floor for his bed and the Boy's beds.
- 63) Respondent admitted he had not slept in a bed for the 12 years before marrying Petitioner.
- 64) Respondent admitted he could not recall the addresses of where he lived or who he lived with for the 10 years before meeting Petitioner.
- 65) Respondent failed to attend counseling as ordered by the Court.
- 66) The Respondent will say or do anything to get his way.

Ford Truck

- 67) The Petitioner owns a company, Childgrove Pediatrics, PA ("Petitioner's Practice").
- 68) Petitioner's Practice purchased a vehicle for the Petitioner's business operations, a 2014 Ford Truck Super Duty F-35 (the "Ford Truck")
- 69) Petitioner's Practice paid for 100% of the purchase price for the Ford Truck.
- 70) The price of the Ford Truck was \$45,045.11.
- 71) The Respondent fraudulently titled the Ford Truck in his sole name without notifying Petitioner.
- 72) After the purchase of the Ford Truck, the Respondent represented to Petitioner he titled the Ford Truck in the name of Petitioner and Respondent, jointly.
- 73) The Respondent's representations to Petitioner regarding the title of Ford Truck were material.
- 74) The Respondent's representations to Petitioner regarding the title of the Ford Truck were false.
- 75) The Respondent knew the representations to Petitioner regarding the title of the Ford Truck were false at the time he made the representations.
- 76) The Respondent made the representations to Petitioner about the title of the Ford Truck with the intent that the Petitioner would act on it.
- 77) The Petitioner relied on the Respondent's false representation.
- 78) The Petitioner suffered damages of \$45,045.11 due to Respondent's fraud.
- 79) The Petitioner owned, had the legal right and right to immediate possession of the Ford Truck.
- 80) The Ford Truck is personal property.
- 81) The Respondent wrongfully exercised dominion or control over the Ford Truck.
- 82) The Petitioner suffered injury and monetary damages in the amount of \$45,045.11.
- 83) The Petitioner had the possessory right to the Ford Truck.

- 84) The Respondent unlawfully appropriated the Ford Truck by taking and selling it without the Petitioner's consent.
- 85) The Respondent unlawfully appropriated the Ford Truck with the intent to deprive the Petitioner of that property.
- 86) The Petitioner suffered damages of \$45,045.11 as a result of the theft by Respondent.
- 87) Respondent did not own the Ford Truck.
- 88) Respondent sold the Ford Truck owned by Petitioner without Petitioner's agreement or consent.
- 89) Respondent violated the Dallas County Standing Order Regarding Children, Pets, Property and Conduct of the Parties by selling and alienating the property of Petitioner, namely selling the Ford Truck.

Attorney's Fees and Sanctions'

- 90) Petitioner incurred attorney's fees and expenses of not less than \$150,000.00.
- 91) Respondent was a vexatious litigant in this matter.
- 92) By an order signed 12.12.2015, Respondent was ordered to produce an Inventory and Appraisalment by 1.4.2016.
- 93) Respondent failed to timely file an Inventory and Appraisalment as ordered in this matter.
- 94) Therefore, by Associate Judge order dated 6.24.2016, Respondent was ordered to pay \$1,500.00 in sanctions and attorney's fees for failure to produce an Inventory and Appraisalment as ordered by the Court by 1.4.2016.
- 95) At the time of trial, Respondent had failed to pay the \$1,500.00 in sanctions as ordered.
- 96) Respondent failed to timely provide information to Petitioner related to his employment and compensation during the pendency of this matter.
- 97) Respondent misrepresented his employment and dates of his employment in discovery during this matter.
- 98) Respondent intentionally tried to increase the cost of the ligation to Petitioner.

Other

- 99) Respondent lied and misrepresented facts to his employers and potential employers during the pendency of this matter.
- 100) During the marriage, the Respondent failed to seek employment.
- 101) After separation, Respondent lied about his role as a primary parent.
- 102) Respondent was not a stay-at-home dad as he alleged.
- 103) The Respondent made false allegations about the Girls potentially abusing the Boys.
- 104) The Respondent falsely asserted that the counselor (Gina Galloway) called CPS.
- 105) Gina Galloway (the counselor) denied notifying CPS about alleged abuse of the Boys by the Girls.
- 106) The Respondent does not have any college degrees, which is contrary to his representations.
- 107) The Respondent was never a Professor, which is contrary to his representations..
- 108) The Respondent was not a Professor at UNT, which is contrary to his representations.
- 109) The Respondent was discharged from the Army for "Admission of Homosexuality."
- 110) The Respondent denies being a homosexual at the time of discharge from the Army.
- 111) The Respondent lied to the Army about being a homosexual.
- 112) The Respondent admitted he had a difficult time finding a job that will accommodate his child care schedule.
- 113) The Respondent's psychological profile suggests an opposition to authority figures and lack of constraint.
- 114) The Respondent's psychological profile indicated interpersonal difficulties, difficulty with authority and convention, and that he externalizes blame for his problems onto others.
- 115) The Respondent's psychological profile indicated he lacks insight into how his actions negatively affected the Girls, stating, "So I made them do push-ups... whoop-di-freaking-do!"
- 116) Dr. Blake Mitchell was ordered to conduct a psychological exam of the parties.
- 117) After conducting a psychological exam and testing, Dr. Mitchell found Respondent's lack of insight into how his behaviors affect others raises a concern that he may repeat these behaviors with James and Jude (the Boys).

- 118) Based on his work on this matter, Dr. Mitchell found Respondent demonstrated a lack of willingness to effectively co-parent with Petitioner.
- 119) Based on his work on this matter, Dr. Mitchell found the Respondent's reluctance to co-parent with Petitioner could potential have negative outcomes for the Boys and interfere with making decisions that are in the best interest of the Boys.
- 120) Based on his work on this matter, Dr. Mitchell found Petitioner put forth significant effort to effectively co-parent with Respondent.
- 121) The collaterals presented by Petitioner described her and her parenting style in positive terms.
- 122) Petitioner would not have married Respondent had she known about his fraud and misrepresentations.

CONCLUSIONS OF LAW

Based on the Findings of Fact as set out above; the Court reaches the following Conclusions of Law:

1. It is in the best interest of the Children for the parties to be named Joint Managing Conservators with the Petitioner having the exclusive right to determine the Children's primary Residence in Dallas, Denton, Tarrant and Collin counties. See Texas Family Code §153.132, et. al. and as more specifically set forth in the Order in Suit Affecting Parent Child Relationship dated 11.9.16 ("11.9.16 SAPCR Order").
2. It is in the best interest of the Children for the Petitioner to have the exclusive rights to make decisions pursuant to Texas Family Code §153.132, etc. al, numbers (1)(2)(3)(4) and (7) after notifying the Respondent. Specifically, it is in the best interest of the children for Petitioner to have the following rights exclusively after notifying Respondent:
 1. the exclusive right to designate the primary residence of the children within Dallas, Denton, Tarrant and Collin counties, as more specifically set forth below in *Residency Restriction*;
 2. the exclusive right, after notifying the Father, to consent to medical, dental, and surgical treatment involving invasive procedures;
 3. the exclusive right, after notifying the Father, to consent to psychiatric and psychological treatment of the children;
 4. the exclusive right to receive and give receipt for periodic payments for the support of the children and to hold or disburse these funds for the benefit of the children; and

7. the exclusive right, after notifying the Father, to make decisions concerning the children's education.
3. It is in the best interest of the Children for the residency restriction of Dallas, Denton, Tarrant and Collin counties to be lifted if the Respondent no longer resides in such counties.
4. It is in the best interest of the children for the Petitioner and Respondent to have all remaining rights under Texas Family Code §153.132 require the consent of the other party as more specifically set forth in the 11.9.16 SAPCR Order.
5. It is in the best interest of the Children for the Petitioner to have the exclusive right to apply for a passport for the Children and maintain possession and control of such passports.
6. The rebuttable presumption of Texas Family Code §153.252 has been rebutted and it is not in the best interest of the Children for the Respondent to have possession under all sections of Subchapter F of the Texas Family Code.
7. It is not in the best interest of the Children for the Respondent to have alternative beginning and ending possession times under §153.317 of the Texas Family Code.
8. It is in the best interest of the Children for the Respondent to have possession as follows: every first, third and fifth weekend beginning at 6:00 p.m. on Friday and ending on Sunday at 6:00 p.m. and every Thursday during the school week from 6:00 p.m. to 8:00 p.m.
9. It is in the best interest of the Children for the Petitioner to have all times of possession not set forth above for the Respondent.
10. It is in the best interest of the Children for the exchange of the Children to take place at the Petitioner's residence with the Respondent picking up the children from the Petitioner's residence and the Respondent returning the Children to the Petitioner's residence.
11. It is in the best interest of the Children for the parent not in possession of the children to have Telephone, Skype and/or FaceTime contact with the children between 6:30 p.m. and 7:30 p.m. every evening.
12. As additional child support, it is in the best interest of the Children for the Respondent to obtain, maintain and pay the cost of a life insurance policy in the amount of \$300,000.00 to secure child support. § 154.016 Texas Family Code.

13. Respondent was in arrears for a total amount of \$1,043.00 in medical support and other child support (Spanish School House) for payments previously ordered. It is in the best interest of the Children to impose money damages of \$1,043.00 for unpaid Child Support with interest. §154 and §157 of the Texas Family Code. The Petitioner met her burden of proof on such child support arrearages.
14. Pursuant to Chapter 154 of the Texas Family Code, guideline child support based on Respondent's salary at the time of trial is \$1,904.32 per month.
15. It is in the best interest of the Children for the Respondent to pay child support of \$1,904.32 per month to Petitioner and every month thereafter to be withheld and paid through the State Disbursement Unit pursuant to Chapter 154 of the Texas Family Code.
16. Pursuant to Chapter 154 of the Texas Family Code, it is in the best interest of the Children for the Petitioner to maintain health insurance for the children.
17. Pursuant to Chapter 154 of the Texas Family Code, it is in the best interest of the children for the Respondent to pay Petitioner \$208.00 per month for the cost of health insurance for the Children.
18. Pursuant to Chapter 154 of the Texas Family Code, it is in the best interest of the children for the Respondent to fifty percent (50%) of the reasonable and necessary health-care expenses of the children that are not reimbursed by medical insurance.
19. It is in the best interest of the Children for the Respondent to pay sanctions of \$1,500.00 to Petitioner which were ordered before the trial of this matter by the Associate Judge but not previously paid.
20. Petitioner established the necessary elements for annulment pursuant to § 6.107 of the Texas Family Code, based on Respondent's fraud and then Petitioner not cohabitation with Respondent after learning of such fraud.
21. Pursuant to § 6.107 of the Texas Family Code, the parties' marriage is annulled and void. Therefore, no community property was created during the voided marriage.
22. In the alternative, pursuant to the parties' Pre-Marital Agreement which is valid and enforceable, even if the marriage was not voided, no community property was created or acquired during the parties' marriage.
23. The assets in the Petitioner's name and possession are her separate property.
24. The Petitioner incurred actual damages of \$45,045.11 for which a money Judgment was properly rendered against Respondent for his actions.

25. It is in the best interest of the children that Respondent pay all expert fees of Christy Bradshaw Schmidt including but not limited to her report.
26. Respondent fraudulently induced Petitioner and Petitioner's Practice, causing actual damages of \$45,045.11.
27. Respondent converted personal property of Petitioner and Petitioner's Practice, causing actual damages of \$45,045.11.
28. Respondent committed a civil theft of personal property of Petitioner and Petitioner's Practice, causing actual damages of \$45,045.11.

SIGNED on

February 10, 2017.



JUDGE PRESIDING