**NO. 2013-00067**

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| --- | --- | --- |
| **IN THE MATTER OF** | **§** | **IN THE DISTRICT COURT** |
| **THE MARRIAGE OF** | **§** |  |
|  | **§** |  |
| **JANE C. DOE** | **§** |  |
| **AND** | **§** | **247TH JUDICIAL DISTRICT** |
| **BOB R. DOE** | **§** |  |
|  | **§** |  |
| **AND IN THE INTEREST OF** | **§** |  |
| **RANDY R. DOE, A CHILD** | **§** | **HARRIS COUNTY, TEXAS** |

**ORIGINAL PETITION FOR DIVORCE**

*1. Discovery Level*

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

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

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

*3. Parties*

This suit is brought by JANE C. DOE, Petitioner. The last three numbers of JANE C. DOE's driver's license number are [\*\_\_\_\_\_\_\*]. The last three numbers of JANE C. DOE's Social Security number are [\*\_\_\_\_\_\_\*].

BOB R. DOE is Respondent.

*4. 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.

*5. Service*

Process should be served on Respondent at [\*\_\_\_\_\_\_\*], [\*\_\_\_\_\_\_\*], Texas.

*6. 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.

*7. Dates of Marriage and Separation*

The parties were married on or about [\*\_\_\_\_\_\_\*] and ceased to live together as husband and wife on or about [\*\_\_\_\_\_\_\*].

*8. 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.

Respondent is guilty of cruel treatment toward Petitioner of a nature that renders further living together insupportable.

Respondent has committed adultery.

Since the marriage, Respondent has been convicted of a felony; has been imprisoned for at least one year in the Texas Department of Criminal Justice, a federal penitentiary, or the penitentiary of another state; and has not been pardoned. Respondent was not convicted on the testimony of Petitioner.

Respondent has left Petitioner with the intention of abandonment and has remained away for at least one year.

Petitioner and Respondent have lived apart without cohabitation for at least three years.

Respondent has been confined in a mental hospital in Texas or another state for at least three years, and it appears that Respondent's mental disorder is of such a degree and nature that adjustment is unlikely or that, if adjustment occurs, a relapse is probable. A guardian ad litem should be appointed for Respondent.

*9. Children of the Marriage*

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

Name: RANDY R. DOE

Sex: [\*\_\_\_\_\_\_\*]

Birth date: December 6, 2005

There are no court-ordered conservatorships, court-ordered guardianships, or other court-ordered relationships affecting the child the subject of this suit.

Information required by section 154.181(b) of the Texas Family Code is provided in the statement attached as Exhibit [\*\_\_\_\_\_\_\*].

No property of consequence is owned or possessed by the child the subject of this suit.

Petitioner and Respondent, on final hearing, should be appointed joint managing conservators, with all the rights and duties of a parent conservator.

Petitioner should be designated as the conservator who has the exclusive right to designate the primary residence of the child. The residence of the child should be restricted to [\*\_\_\_\_\_\_\*]. Respondent should be ordered to make payments for the support of the child and to provide medical child support in the manner specified by the Court. Petitioner requests that the payments for the support of the child survive the death of Respondent and become the obligations of Respondent's estate.

Petitioner requests the Court to order reasonable periods of electronic communication between the child and Petitioner to supplement Petitioner's periods of possession of and access to the child.

Respondent has a history or pattern of child neglect and physical abuse directed against RANDY R. DOE. Petitioner requests the Court to deny Respondent access to the child. Alternatively, Petitioner requests that the Court render a possession order that provides that Respondent's periods of visitation be continuously supervised by an entity or person chosen by the Court.

*10. Division of Community Property*

Petitioner requests the Court to divide the estate of Petitioner and Respondent 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. benefits the innocent spouse may have derived from the continuation of the marriage;

c. disparity of earning power of the spouses and their ability to support themselves;

d. health of the spouses;

e. the spouse to whom conservatorship of the child is granted;

f. needs of the child of the marriage;

g. education and future employability of the spouses;

h. community indebtedness and liabilities;

i. tax consequences of the division of property;

j. ages of the spouses;

k. earning power, business opportunities, capacities, and abilities of the spouses;

l. need for future support;

m. nature of the property involved in the division;

n. wasting of community assets by the spouses;

o. credit for temporary support paid by a spouse;

p. community funds used to purchase out-of-state property;

q. gifts to or by a spouse during the marriage;

r. increase in value of separate property through community efforts by time, talent, labor, and effort;

s. reimbursement;

t. actual fraud committed by a spouse; and

u. constructive fraud committed by a spouse.

*11. 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.

*12. Reimbursement*

Petitioner requests the Court to reimburse the community estate for funds or assets expended by the community estate for the benefit of Respondent's separate estate. Those expenditures resulted in a direct benefit to Respondent's separate estate. The community estate has not been adequately compensated for or benefited from the expenditure of those funds or assets, and a failure by the Court to allow reimbursement to the community estate will result in an unjust enrichment of Respondent's separate estate at the expense of the community estate.

*13. Postdivorce Maintenance*

Petitioner requests the Court to order that Petitioner be paid postdivorce maintenance for a reasonable period in accordance with chapter 8 of the Texas Family Code. Petitioner requests the Court to issue an order for withholding from Respondent's wages for this maintenance.

*14. Request for Temporary Restraining Order*

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

1. Communicating with Petitioner in person, by telephone, or in writing in vulgar, profane, obscene, or indecent language or in a coarse or offensive manner.

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

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

4. Causing bodily injury to Petitioner or to a child of either party.

5. Threatening Petitioner or a child of either party with imminent bodily injury.

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

7. Falsifying any writing or record relating to the property of either party.

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

9. Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.

10. 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 Petitioner.

11. Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of Petitioner or Respondent, whether personalty or realty, and whether separate or community, except as specifically authorized by order of this Court.

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

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

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

15. 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 order of this Court.

16. Entering any safe-deposit box in the name of or subject to the control of Petitioner or Respondent, whether individually or jointly with others.

17. Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of Petitioner or Respondent, except as specifically authorized by order of this Court.

18. Changing or in any manner altering the beneficiary designation on any life insurance on the life of Petitioner or Respondent or the parties' child.

19. Canceling, altering, failing to renew or pay premiums, or in any manner affecting the present level of coverage of any life, casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' child.

20. Opening or diverting mail addressed to Petitioner.

21. Signing or endorsing Petitioner'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 Petitioner without the personal signature of Petitioner.

22. Taking any action to terminate or limit credit or charge cards in the name of Petitioner.

23. Discontinuing or reducing the withholding for federal income taxes on Respondent's wages or salary while this case is pending.

24. Destroying, disposing of, or altering any financial records of the parties, including but not limited to records from financial institutions (including canceled checks and deposit slips), all records of credit purchases or cash advances, tax returns, and financial statements.

25. Destroying, disposing of, or altering any e-mail or other electronic data relevant to the subject matters of this case, whether stored on a hard drive or on a diskette or other electronic storage device.

26. 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 [\*\_\_\_\_\_\_\*] or in any manner attempting to withdraw any deposits for service in connection with those services.

27. Excluding Petitioner from the use and enjoyment of the residence located at [\*\_\_\_\_\_\_\*].

28. Entering, operating, or exercising control over the [\*\_\_\_\_\_\_\*] in the possession of Petitioner.

29. Disturbing the peace of the child or of another party.

30. Withdrawing the child from enrollment in the school or day-care facility where the child is presently enrolled.

31. Hiding or secreting the child from Petitioner.

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

33. Consuming alcohol within the [\*\_\_\_\_\_\_\*] hours before or during the period of possession of or access to the child.

34. Permitting an unrelated adult with whom Respondent has an intimate or dating relationship to remain in the same residence with the child between the hours of [\*\_\_\_\_\_\_\*] P.M. and [\*\_\_\_\_\_\_\*] A.M.

Petitioner requests that Respondent be authorized only as follows:

To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation, and medical care.

To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.

To engage in acts reasonable and necessary to conduct Respondent's usual business and occupation.

*15. Causes of Action for Assault*

a. Cause of Action for Intentional, Knowing, or Reckless Bodily Injury

On or about [\*\_\_\_\_\_\_\*] in HARRIS County, Texas, Respondent intentionally or knowingly or recklessly caused bodily injury to Petitioner by [\*\_\_\_\_\_\_\*].

b. Cause of Action for Offensive or Provocative Physical Contact

On or about [\*\_\_\_\_\_\_\*] in HARRIS County, Texas, Respondent intentionally or knowingly caused physical contact with Petitioner by [\*\_\_\_\_\_\_\*] when Respondent knew or should have reasonably believed that Petitioner would regard such contact as offensive or provocative.

*16. Cause of Action for Intentional Infliction of Emotional Distress*

On or about [\*\_\_\_\_\_\_\*] in HARRIS County, Texas, Respondent intentionally or recklessly engaged in a pattern of extreme and outrageous conduct that caused Petitioner to suffer severe emotional distress. Respondent [\*\_\_\_\_\_\_\*].

*17. Actual Damages for Resulting Personal Injuries*

As a direct and proximate result of Respondent's wrongful conduct alleged above, Petitioner has suffered certain damages including

a. reasonable and necessary medical expenses in the past;

b. reasonable and necessary medical expenses that in reasonable probability will be incurred in the future;

c. loss of earnings in the past;

d. physical pain, suffering, and mental anguish in the past;

e. physical pain, suffering, and mental anguish that in reasonable probability will be suffered in the future;

f. disfigurement;

g. physical impairment.

Petitioner additionally brings this suit for these damages, which are within the jurisdictional limits of this Court.

*18. Exemplary Damages*

The conduct committed by Respondent against Petitioner is the type of conduct evidencing actual malice on Respondent's part that allows the imposition of exemplary damages. Petitioner additionally brings this suit for these damages, which are within the jurisdictional limits of this Court.

*19. Intrusion on Seclusion*

Petitioner further complains of Respondent for an unwarranted intrusion on Petitioner's solitude or seclusion or into the private affairs of Petitioner, which constituted a legal injury for which Petitioner seeks money damages.

On [\*\_\_\_\_\_\_\*] Respondent intentionally invaded Petitioner's right to be left alone by committing one or more of the unlawful acts set out in chapter 123 of the Texas Civil Practice and Remedies Code: [\*\_\_\_\_\_\_\*].

*20. Damages*

This action proximately resulted in damages to Petitioner for which Petitioner now seeks relief. Those damages include mental suffering, shame, and humiliation. Petitioner seeks money damages from Respondent in an amount within the jurisdictional limits of this Court.

*21. Exemplary Damages*

In doing all the acts alleged, Respondent acted wantonly and with malice toward Petitioner. Petitioner seeks exemplary damages for this wanton and malicious conduct.

*22. Tortious Interference with Business Relations*

On [\*\_\_\_\_\_\_\*] and continuing thereafter, Respondent, without privilege or justification, engaged in conduct that intentionally and willfully interfered with the business relationship of Petitioner and [\*\_\_\_\_\_\_\*]. At the time that conduct occurred, Petitioner had a reasonable expectation of a continuing business relationship with [\*\_\_\_\_\_\_\*], and Respondent knew of that reasonable expectation. Respondent's interference with the business relationship induced or caused the termination of this expectancy.

*23. Damages*

This action proximately resulted in damages to Petitioner for which Petitioner now seeks relief. Those damages include [\*\_\_\_\_\_\_\*].

*24. Wrongful Interference with an Existing Contract*

On [\*\_\_\_\_\_\_\*] and continuing thereafter, Respondent, without justification or excuse, willfully and intentionally interfered with an existing contract between Petitioner and [\*\_\_\_\_\_\_\*].

*25. Damages*

This action proximately resulted in damages to Petitioner for which Petitioner now seeks relief. Those damages include [\*\_\_\_\_\_\_\*].

*26. Request for Change of Name*

Petitioner requests a change of name to [\*\_\_\_\_\_\_\*].

*27. Attorney's Fees, Expenses, Costs, and Interest*

It was necessary for Petitioner to secure the services of RONALD K. ESPOSITO, a licensed attorney, to prepare and prosecute this suit. To effect an equitable division of the estate of the parties and as a part of the division, and for services rendered in connection with conservatorship and support of the child, judgment for attorney's fees, expenses, and costs through trial and appeal should be granted against Respondent and in favor of Petitioner for the use and benefit of Petitioner's attorney and be ordered paid directly to Petitioner's attorney, who may enforce the judgment in the attorney's own name. Petitioner requests postjudgment interest as allowed by law.

*28. Prayer*

Petitioner prays that citation and notice issue as required by law and that the Court grant a divorce and all other relief requested in this petition.

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

Petitioner prays for judgment against BOB R. DOE in a sum within jurisdictional limits of this Court for her actual damages as alleged, for exemplary damages, for prejudgment and postjudgment interest as allowed by law, for costs of court, and for general relief.

Petitioner prays that Petitioner's name be changed as requested above.

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

Petitioner requests a jury trial and pays the jury fee of $[\*\_\_\_\_\_\_\*].

Petitioner prays for general relief.

Respectfully submitted,

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