

CAUSE NO. D-1-FM-10-003133

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
HANNAH ELIZABETH MORGAN,	§	345th JUDICIAL DISTRICT
	§	
A CHILD	§	TRAVIS COUNTY, TEXAS

TEMPORARY ORDERS IN
SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

On the 6th day of August, 2010, the Court heard Petitioner's Motion for Temporary Orders.

1. *Appearances*

Petitioner, Joshua J. Morgan, appeared in person and through his attorney of record, Carly Gallagher, and announced ready.

Respondent, Kristin Morgan, appeared in person and through attorney of record, William H. Alberts, and announced ready for trial.

Also appearing was Leslie Masad, court-appointed guardian ad litem of the child the subject of this suit.

2. *Record*

The record of testimony was duly reported by Angie Hertel, the court reporter for the Honorable Andrew Hathcock's Court.

3. *Jurisdiction*

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

4. *Temporary Orders*

The Court, having considered the circumstances of the parents and of the child, finds that the following orders are in the best interest of the child:

Name:	Hannah Elizabeth Morgan
Sex:	female
Birth date:	12/12/09
Birth place:	Round Rock, Texas

Conservatorship

IT IS ORDERED that Kristin Morgan is appointed temporary managing conservator and Joshua J. Morgan is appointed temporary possessory conservator of the child the subject of this suit.

Rights and Duty at All Times. IT IS ORDERED that, at all times, Kristin Morgan, as temporary managing conservator, and Joshua J. Morgan, as temporary possessory conservator, shall each have the following rights and duty:

1. the right to receive information from any conservator of the child concerning the health, education, and welfare of the child;
2. the duty to inform the other parent in a timely manner of significant information concerning the health, education and welfare of the child;
3. the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the child;
4. the right of access to medical, dental, psychological and educational records of the child;
5. the right to consult with a physician, dentist or psychologist of the child;
6. the right to consult with school officials concerning the child's welfare and educational status, including school activities;
7. the right to attend school activities;
8. the right to be designated on the child's records as a person to be notified in case of an emergency;
9. the right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child; and
10. the right to manage the estates of the child to the extent the estates have been created by the parent or the parent's family.
11. the duty to inform the other conservator of the child if the conservator resides with for at least thirty days, marries, or intends to marry a person who the conservator knows is registered as a sex offender under chapter 62 of the Code of Criminal Procedure or is currently charged with an offense for which on conviction the person would be required to register under that chapter. IT IS ORDERED that this information shall be tendered in the form of a notice made as soon as practicable, but not later than the fortieth day after the date the conservator of the child begins to reside with the person or on the tenth day after the date the marriage occurs, as appropriate. IT IS ORDERED that the notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged.

WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE PERSON FAILS TO PROVIDE THIS NOTICE.

Rights of Both Conservators During Periods of Possession. IT IS ORDERED that, during their respective

periods of possession, Kristin Morgan, as temporary managing conservator, and Joshua J. Morgan, as temporary possessory conservator, shall each have the following rights and duties:

1. the duty of care, control, protection, and reasonable discipline of the child;
2. the duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
3. the right to consent for the child to medical and dental care not involving an invasive procedure;
4. the right to direct the moral and religious training of the child.

IT IS ORDERED that Kristin Morgan, as temporary managing conservator, shall have the following exclusive rights and duty:

1. the right to designate the primary residence of the child;
2. the right to consent to medical, dental, and surgical treatment involving invasive procedures and to consent to psychiatric and psychological treatment of the child;
3. the right to receive and give receipt for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child;

Possession and Access.

THE COURT FINDS that application of the "standard possession order" as set out by Chapter 153 of the Texas Family Code is unworkable under the circumstances. The Court further finds that the terms of this order which impose restrictions or limitations on the Temporary Possessory Conservator's right to possession of or access to the subject child do not exceed those that are required to protect the best interest of the child.

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out below.

IT IS THEREFORE ORDERED that the following possession schedule shall be the child's temporary possession schedule:

1. Joshua J. Morgan shall be entitled to possession of the child one (1) weekend every month, beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday.

- 2. Kristin Morgan shall surrender possession of the child to Joshua Morgan during his periods of possession.
- 3. During odd numbered months, Joshua J. Morgan shall travel to Kristin Morgan's residence to retrieve the child for his period of possession.
- 4. During even numbered months, Kristin Morgan shall travel to Joshua J. Morgan's residence to surrender the child to Joshua J. Morgan for his period of possession.
- 5. ~~The parties shall equally split the costs of travel to and from each others' residences for the purposes of exercising their respective periods of possession of the child.~~
EACH PARTY SHALL PAY THEIR OWN ^{the}

(Handwritten initials: JM)

(Handwritten initials: JM)

IT IS FURTHER ORDERED:

(a) Definitions.

1. In this possession order "school" means the primary or secondary school in which the child is enrolled or, if the child is not enrolled in a primary or secondary school, the public school district in which the child primarily resides.

2. In this possession order "child" includes each child, whether one or more, who is a subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

(b) Holiday Possession by Joshua J. Morgan

Unless the parties explicitly agree otherwise, and do so with timely written notice, Joshua J. Morgan shall have possession of the child as follows:

- 1. Weekend Possession Extended by a Holiday. Except as otherwise explicitly provided in this possession order, if a weekend period of possession by Joshua J. Morgan begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at 6:00 p.m. on the Thursday immediately preceding the Friday holiday or school holiday or end at 6:00 P.M. on that Monday holiday or school holiday.
- 2. Christmas Holidays in Even-Numbered Years. In even-numbered years, beginning at 6:00 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 26.
- 3. Christmas Holidays in Odd-Numbered Years. In odd-numbered years, beginning at noon on December 26 and ending at 6:00 p.m. on the day before the child's school resumes after that Christmas school vacation.
- 4. Thanksgiving in Odd-Numbered Years. In odd-numbered years, beginning at 6:00 p.m on the day the child is dismissed from school for the Thanksgiving holiday and ending at 6:00 p.m.

on the Sunday following Thanksgiving.

5. Father's Day. Each year, beginning at 6:00 P.M. on the Friday preceding Father's Day and ending at 6:00 P.M. on Father's Day, provided, that if Joshua J. Morgan is not otherwise entitled under this possession order to present possession of the child, the parties shall make a reasonable effort to split the travel burden and expenses equally between the parties.

(c) Holiday Possession by Kristin Morgan

1. Christmas Holidays in Odd-Numbered Years. In odd-numbered years, beginning at 6:00 P.M. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 26.
2. Christmas Holidays in Even-Numbered Years. In even-numbered years, beginning at noon on December 26 and ending at 6:00 P.M. on the day before school resumes after that Christmas school vacation.
3. Thanksgiving in Even-Numbered Years. In even-numbered years, beginning at 6:00 P.M. on the day the child is dismissed from school for the Thanksgiving holiday and ending at 6:00 P.M. on the following Sunday.
4. Mother's Day. Each year, beginning at 6:00 P.M. on the Friday preceding Mother's Day and ending at 6:00 P.M. on Mother's Day, provided that if Kristin Morgan is not otherwise entitled under this possession order to present possession of the child, the parties shall make a reasonable effort to split the travel burden and expenses equally between the parties.

(d) General Terms and Conditions.

Except as otherwise explicitly provided in this possession order, the terms and conditions of possession of the child that apply regardless of the distance between the residence of a parent and the child are as follows:

1. Personal Effects. Each conservator is ORDERED to return with the child the personal effects that the child brought at the beginning of the period of possession.
2. Designation of Competent Adult. Each conservator may designate any competent adult to pick up and return the child, as applicable. IT IS ORDERED that a conservator or a designated competent adult be present when the child is picked up or returned.
3. Inability To Exercise Possession. Each conservator is ORDERED to give notice to the person in possession of the child on each occasion that the conservator will be unable to exercise that conservator's right of possession for any specified period.
4. Written Notice. Written notice shall be deemed to have been timely made if received or

postmarked before or at the time that notice is due.

5. Restriction on Consumption of Alcohol and Use of Controlled Substances. Both parties are ORDERED to abstain from the use of alcohol and other controlled substances for the duration of these temporary orders.

This concludes the possession order.

Notice to Peace Officers

NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE TERMS OF CHILD CUSTODY SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CLAIM, CIVIL OR OTHERWISE, REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THE ORDER THAT RELATE TO CHILD CUSTODY. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS \$10,000.

5. *Child Support*

IT IS ORDERED that Joshua J. Morgan pay to Kristin Morgan for the support of Hannah Elizabeth Morgan \$775.00 per month, with the first payment being due and payable on September 1, 2010, and a like payment being due and payable on the 1st day of each month thereafter until further order of this Court.

6. *Health Care*

IT IS ORDERED that medical support shall be provided for the child as follows:

1. Definitions -

"Health insurance" means insurance coverage that provides basic health-care services, including usual physician services, office visits, hospitalization, and laboratory, X-ray, and emergency services, and may be provided in the form of an indemnity insurance contract or plan, a preferred provider organization or plan, a health maintenance organization, or any combination thereof.

"Reasonable cost" means the cost of a health insurance premium that does not exceed nine (9) percent of the responsible parent's net income in a month.

2. The Court FINDS that the child is currently enrolled as a beneficiary of a health insurance plan provided through Joshua J. Morgan's employment. IT IS ORDERED that Joshua J. Morgan shall maintain this health coverage for the child.

3. Payment of Uninsured Expenses - IT IS ORDERED that the parties shall be equally responsible for any uninsured portion of health-care expenses. Each party shall pay fifty per cent (50%) of uncovered medical expenses for the child.

7. *Other Miscellaneous Provisions*

1. IT IS ORDERED that each party shall cooperate with the guardian ad litem's, Leslie Masad, efforts regarding the child's best interest.

2. IT IS ORDERED that each party shall complete a parenting course approved and chosen by the guardian ad litem, Leslie Masad.

3. IT IS ORDERED that each party shall submit to both an alcohol test and a hair follicle drug test, both of which are to be at each party's own expense. A copy of the results of each test shall be submitted to the guardian ad litem, Leslie Masad.

4. IT IS ORDERED that each party shall complete a psychological evaluation. Upon completion of the psychological evaluation, each party shall provide a copy of the psychological evaluation to the guardian ad litem, Leslie Masad.

5. IT IS ORDERED THAT Joshua J. Morgan shall submit to an alcohol evaluation. Upon completion of that evaluation, Joshua J. Morgan shall provide a copy of the evaluation to the guardian ad litem, Leslie Masad.

6. IT IS ORDERED that the parties will set this case for final hearing timely.

7. IT IS ORDERED that before the parties attend final hearing, each party will independently develop two plans for possession of the child adhering to the following:

a. One plan should envision the child living in Texas with either one or both of the parents also living in Texas;

b. One plan should envision the child living in Tennessee with either one or both of the parents also living in Tennessee.

8. IS IT ORDERED that Kristin Morgan is permitted to retrieve the title to her motor vehicle from

Handwritten notes:
JMM
KKA
As directed by AS. Masad
MA

the parties' marital residence.

Required Notices

EACH PERSON WHO IS A PARTY TO THIS ORDER IS ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY OF CHANGES IN THE PARTY'S CURRENT RESIDENCE ADDRESS, MAILING ADDRESS, HOME TELEPHONE NUMBER, NAME OF EMPLOYER, ADDRESS OF EMPLOYMENT, DRIVER'S LICENSE NUMBER, AND WORK TELEPHONE NUMBER. THE PARTY IS ORDERED TO GIVE NOTICE OF AN INTENDED CHANGE IN ANY OF THE REQUIRED INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY ON OR BEFORE THE 60TH DAY BEFORE THE INTENDED CHANGE. IF THE PARTY DOES NOT KNOW OR COULD NOT HAVE KNOWN OF THE CHANGE IN SUFFICIENT TIME TO PROVIDE 60-DAY NOTICE, THE PARTY IS ORDERED TO GIVE NOTICE OF THE CHANGE ON OR BEFORE THE FIFTH DAY AFTER THE DATE THAT THE PARTY KNOWS OF THE CHANGE.

THE DUTY TO FURNISH THIS INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY CONTINUES AS LONG AS ANY PERSON, BY VIRTUE OF THIS ORDER, IS UNDER AN OBLIGATION TO PAY CHILD SUPPORT OR ENTITLED TO POSSESSION OF OR ACCESS TO A CHILD.

FAILURE BY A PARTY TO OBEY THE ORDER OF THIS COURT TO PROVIDE EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY WITH THE CHANGE IN THE REQUIRED INFORMATION MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

Warnings to Parties

WARNINGS TO PARTIES: FAILURE TO OBEY A COURT ORDER FOR CHILD SUPPORT OR FOR POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

FAILURE OF A PARTY TO MAKE A CHILD SUPPORT PAYMENT TO THE PLACE AND IN

THE MANNER REQUIRED BY A COURT ORDER MAY RESULT IN THE PARTY'S NOT RECEIVING CREDIT FOR MAKING THE PAYMENT.

FAILURE OF A PARTY TO PAY CHILD SUPPORT DOES NOT JUSTIFY DENYING THAT PARTY COURT-ORDERED POSSESSION OF OR ACCESS TO A CHILD. REFUSAL BY A PARTY TO ALLOW POSSESSION OF OR ACCESS TO A CHILD DOES NOT JUSTIFY FAILURE TO PAY COURT-ORDERED CHILD SUPPORT TO THAT PARTY.

12. Duration

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

SIGNED on September 7, 2010

[Signature]
ASSOCIATE JUDGE PRESIDING

APPROVED AS TO FORM AND SUBSTANCE:

[Signature]
Carly Gallagher
State Bar No. 24062733
P.O. Box 200293
Austin, Texas 78720-0293
(512) 633-2204 (voice)
(866) 611-4045 (facsimile)
Carly@CarlyLaw.com
ATTORNEY FOR PETITIONER/FATHER

Joshua Morgan
Pro Se

Judicially rendered on 8-6-10
and signed on 9-7-10
by Associate Judge J. Andrew Hathcock pursuant to
Section 201.007, Texas Family Code. Notice: All
parties have the right to request a de novo hearing
before a District Judge.

[Signature]
William H. Alberts
McLeroy, Alberts & Benjamin, P.C.
608 West 12th Street
Austin, Texas 78701-1730
Telephone: (512) 472-7893
Telecopier: (512) 472-1622
ATTORNEY FOR RESPONDENT/MOTHER