

STATE OF INDIANA)
)SS:
COUNTY OF DEARBORN)

IN THE RIPLEY CIRCUIT COURT

GENERAL TERM, 2009

MELISSA BREWINGTON
Petitioner

CAUSE NO. 69C01-0701-DR-007

VS.

DANIEL BREWINGTON
Respondent

FILED

AUG 18 2009

Elizabeth Bradford
RIPLEY COUNTY COURTS

JUDGMENT AND
FINAL ORDER ON DECREE OF DISSOLUTION OF MARRIAGE

This matter came for final hearing on May 27, June 2, and June 3, 2009. Petitioner, Melissa Brewington, appeared in person and with counsel, Angela G. Loechel, and Respondent, Daniel Brewington, appeared in person.

The Court, having heard testimony, having received evidence, and having taken this cause of action under advisement, now FINDS as follows:

1. More than sixty (60) days have passed since the filing of this action on January 8, 2007.
2. The parties were continuous residents of the County of Ripley for more than three (3) months and the State of Indiana for more than six (6) months immediately preceding the filing of the Petition for Dissolution of Marriage.
3. The parties were lawfully married on August 10, 2002, in Norwood, Ohio.
4. There have been two (2) children born as the issue of their marriage, namely: Mary Brewington, born October 30, 2003, who is now five (5) years old and Audrey Brewington, born February 6, 2006, who is now three (3) years old.
5. There has been an irretrievable breakdown in the marriage.

6. That Petitioner/Wife is not pregnant.
7. The marriage of the parties is hereby dissolved and the parties are restored to the state of unmarried persons.
8. It is in the best interests of the minor children, Mary Brewington, born October 30, 2003, and Audrey Brewing, born February 6, 2006, that Petitioner/Wife be granted sole custody of the minor children and that Respondent/Husband's visitation with the minor children be restricted based upon the testimony of the parties and Dr. Edward Connor, the Custodial Evaluation and Addendum, and the evidence presented. The Court has taken judicial notice of the entire file in this case and the Court considers Respondent's actions in the hearings on this action. The Court specifically finds:
 - A. Wife is and has been the primary caretaker of the children. She was granted temporary sole custody of the children on March 6, 2007.
 - B. Wife is the parent that primarily interacts with and takes the children to their medical providers and has scheduled the children's surgery. Petitioner/Wife has been to 71 of the 74 pediatrician visits and Respondent/Husband has been to only 9 of those visits. Of the 21 specialist appointments, Wife was at 20 of said appointments and Husband was at 2. Of the 5 surgeries Wife was at all 5 and Husband was at 4 as he missed Audrey's ear surgery in December, 2006. (Petitioner's Exhibit #26, 27, 28 and 29). Wife was present for all of Mary's speech therapy sessions and Husband was not present for

any of said sessions. Further, Wife took the girls to all of their dental appointments and Husband attended none.

- C. Wife is the parent primarily involved with the children's formal education. Wife has primarily interacted with the teachers and the care providers prior to Husband abruptly taking the children out of Little Red School House for daycare after the Amended Provisional Orders were issued. Further, Wife primarily interacts with Little Red School House with respect to Mary's pre kindergarten and takes the initiative to ensure that Mary is not left out of activities at Little Red School House in Lawrenceburg, Indiana. Husband has his mother take or pick up the children from Little Red School House a significant amount of the time (Petitioner's Exhibits #30 and 31) and did not attend Mary's first day of school, meet the teacher night, or parent/teacher conferences in both 2007 and 2008. Wife has made arrangements for Mary's kindergarten next school year at St. James Elementary School and has Audrey registered for preschool at Playtime. In addition, Playtime will be the children's daycare provider in the summer months.
- D. Wife is involved in a variety of activities with the children, including one-on-one activities, family activities, and organized activities. Of the one hundred thirty-five (135) organized extracurricular activities attended by the children, Wife was at 133, while Husband was

present for 3 dance recitals. Wife's family has many family traditions that she participates in with the children. Further, Wife spends time with the children at the zoo, the Museum Center, the circus, Disney on Ice, swimming at the YMCA, going to parks, taking walks, riding bikes, baking cookies, doing arts and crafts, and a variety of other activities.

- E. Wife is the parent that encourages the children's spirituality. As the children were baptized Catholic, she takes the children to Mass on her weekends at St. Ignatius Church or St. James Church, and intends for the children to attend St. James Elementary School in White Oak, Ohio.
- F. Wife provides the children with a clean and safe environment, with clean clothes, with meals, and other necessities. Wife also provides them with their own room. Husband sleeps in the same room with the children at his residence and when they stay with his mother. Further, Husband's home was messy and disorganized with food lying on the counters during the custodial evaluation. This condition existed despite Respondent's mother assisting him in clearing the home before the visit. (Petitioner's Exhibit #39).
- G. Wife continues to see Dr. Dillon, a child psychologist to assist her in making this difficult time easier for the children, as well as reading books to help the children.
- H. Wife has sought help from a psychologist, Dr. Melowsky, for Mary.

Husband contacted said psychologist with concerns about confidentiality, refused to fill out the paperwork for Dr. Melowsky, and sent Dr. Melowsky a lengthy letter stating that he was afraid the paperwork would be used against him in Court and he would have to subpoena Dr. Melosky. Dr. Melowsky then refused to treat with Mary.

- I. Husband took monies from Mary's account that was funded with her birthday, Christmas, Baptism money, and small contributions from Wife's salary. With the monies that he withdrew and the bank fees due to his withdrawal, Husband owed Mary's account \$640.00.
- J. Joint custody is inappropriate given the findings of the custodial evaluation, the addendum, the testimony of the parties and Dr. Connor, the Court's file in this action, and Respondent's actions in the Court. Husband has severe Attention Deficit Disorder that affects his ability to focus and concentrate, he rambles and forgets, and is given to impulsive and incoherent thought. (Petitioner's Exhibit #39). Husband could not communicate with mother with the skills necessary to conduct joint custody.
- K. The Psychometric Test Results of the Husband reported in the Confidential Custody Evaluation of August 29, 2007, and Dr. Connor's testimony, indicate that he has "a degree of psychological disturbance that is concerning and does not lend itself to proper parenting." His profile as per the Custody Evaluation and Dr. Connor's testimony indicates that Respondent is paranoid, is manipulative, exhibits a

"manic-like existence", is "unwilling to accept responsibility for his behavior", is self-centered, "has difficulty seeing an issue from another's perspective", likes to do "things on his own was as opposed to being more cooperative and compromising" when needed, and "does not handle criticism well." Most of these behaviors were exhibited by Respondent at some time during the hearings before this Court.

- L. According to Dr. Connor's testimony, Husband's writings are similar to those of individuals who have committed horrendous crimes against their families.
- M. In the past, Husband has shoved Wife and has blocked her car to prevent her from leaving. (Petitioner's Exhibit #39).
- N. Husband has posted information about the dissolution proceeding on his website, on his blog, and on various other sites, and continued to post information even after the hearing for a temporary restraining order wherein the Court's Order stated that the "Court may also consider evidence presented at this hearing regarding the temporary restraining order in regard to the Court's decision as to visitation and custody and how Respondent's actions may affect the best interests of the children now and in the future." Husband quoted portions of the custodial evaluation in said postings, does not seem to appreciate the harm to the children by making these issues public, and is even instructing the children on how to use computers and to access the

internet.

- O. Husband admitted to posting on his Face book page in regard to these proceedings that "This is like playing with gas and fire, and anyone who has seen me with gas and fire know that I am quite the accomplished pyromaniac". Husband also posted that if this Court wanted him to take down his internet postings concerning the dissolution that they would have to kill him to stop him.
- P. Husband has threatened to share information about the dissolution with friends and families of the parties, to poll friends and family to determine which parent was acting more rational, and to put all the information about the dissolution in a time capsule for the children to open in the future. The Court finds this is part of his continuing effort to manipulate Wife.
- Q. Husband began instructing Mary, now age 5, in the use of firearms when she was 4 years old over Wife's concerns and protests. Wife expressed concern for Husband leaving firearms around the house at the time of the Provisional Hearing, and Husband testified that he got the gun safe only to appease Wife.
- R. Husband has exposed the children to movies with inappropriate content for their age, and when confronted by Wife concerning Mary's nightmares, Husband responded that Disney movies were more detrimental to the children than "Austin Powers".

- S. The record of this case shows that Husband has attempted to intimidate the Court, Court staff, Wife, Dr. Connor and anyone else taking a position contrary to his own. The Court is most concerned about Husband's irrational behavior and attacks on Dr. Connor. Frankly it appears that these attacks have been an attempt at revenge for taking a position regarding custody contrary to Husband. The Court also finds that Husband has made a less than subtle attempt to intimidate Attorney Loechel by contacting Attorney Loechel's husband regarding weapons training during the pendency of the case. The Court also considers Husband's verbal explosion on the first day of the final hearing and the necessity to have a Sheriff's Deputy present in the Courtroom for all three (3) days of said hearing. In sum, the Court finds Husband to be irrational, dangerous and in need of significant counseling before he can conduct himself as a parent. Husband has stated that he acts in this manner to show his children that he is fighting for them. To the contrary, his words and actions show that he is, at least presently, unable to conduct himself with the level of maturity necessary to be a parent. Husband would be better served to show how much he can co-operate with Wife and the professionals involved for the best interests of his children.
- T. The majority of visitation transfers are now occurring at the Bob Evans Restaurant on Northbend Road in Cincinnati, Ohio.
- U. Mother is a nurse at Good Samaritan Hospital and works every

Wednesday, Friday, and every third Monday from 7:00 a.m. to 7:00 p.m., and every third weekend from 7:00 a.m. to 7:00 p.m. Further, her holiday schedule rotates every three years.

V. Husband voluntarily ceased working shortly after the Provisional Orders came out in this action. Mother, Sue Brewington has been giving Husband Two Thousand Five Hundred Dollars (\$2,500.00) per month during the pendency of this case.

W. Husband has been having his mother, Sue Brewington, watch the children for him while he "works" on his "legal project" instead of spending that time with the children. Sue Brewington did not participate in the custodial evaluation and her home was not evaluated.

9. Child support shall be calculated based upon the following findings:

A. Husband earned \$37,165 in income from Secure America, Inc., in the tax year 2005, his last full year of employment before starting his own business (Petitioner's Exhibit #37). As such, Husband's weekly gross income will be imputed at \$714.71 per week. Said amount should be imputed as the gross weekly income for Husband as Husband initially went into business on his own without producing any profit and then voluntarily ceased to operate his own business, namely, Brewington Solutions, LLC. Husband would normally be entitled to offset his gross receipts with any ordinary and necessary expenses necessary to produce this income, but the majority of his deductions were

produced by depreciation on the 2005 Ford Truck that is being paid for with contributions from his mother. Sue Brewington is currently gifting to Husband the sum of \$2,500 per month to cover his expenses and free housing valued by Respondent at \$600 per month, as well as paying for his cell phone and utilities. Based upon the \$2,500 per month in cash and free housing, Sue Brewington's contribution to Husband is equivalent to \$37,200 per year or \$715.39 per week.

- B. Wife's 2008 income was \$45,840.68. As such, her average weekly gross income is \$881.55 per week. (Petitioner's Exhibit #36).
- C. The Weekly Work Related Child Care Expense for the children will be \$174.71 per week. Said amount includes Mary's tuition at St. James at the rate of \$2,785.00 per year (Petitioner's Exhibit #44), Audrey's pre school at Playtime at the rate of \$105.00 per week for the three days per week that she will be attending (Petitioner's Exhibit #43), and daycare at the rate of \$105.00 per week for Mary and \$105.00 per week for Audrey for a total of \$210.00 per week at Playtime for the days which Wife works during the summer months.
- D. Wife incurs \$20.80 extra per week to cover the children on her employer provided medical and dental insurance (Petitioner's Exhibit #42).
- E. Parenting time credit was given for 96-100 overnights per year to Husband, for a parenting credit of \$59.99 per week, although it is

anticipated that Husband will not exercise this many overnights.

10. Wife has incurred the sum of \$50,242.00 in attorney fees through June 1, 2009. A majority of said fees were incurred based upon the actions of Husband which include filing many frivolous and, at times, nonsensical motions and petitions, and not co-operating in basic discovery.
11. Wife incurred the sum of \$600.00 for the appraisal of the personal property from Atlas Land Services and \$150.00 for Mr. Nelson Elliot to appear in Court. (Petitioner's Exhibit #47). Said appraisal was the only appraisal performed on the personal property and Husband's actions contributed to the cost of said appraisal and the necessity for Mr. Elliot to appear in Court.
12. Husband paid the sum of \$1,350.00 which was a portion of the fee to Connor and Associates, PLLC for the Initial Custodial Evaluation that was performed by Agreed Order. Wife incurred the sum of \$1,850.00 for said Evaluation. As such, Wife paid the final \$250.00 owed by husband for said Evaluation, in addition to her half of the cost for the Initial Evaluation. Wife paid \$350.00 for the follow up appointment that was set to specifically address Husband's concerns although Husband failed to attend the session. Wife, also, incurred the sum of \$1,500.00 for Dr. Connor to appear and testify at the Final Hearing, which was in large part made necessary by Husband's actions and behavior (Petitioner's Exhibit #48).
13. The proceeds from the parties' 2006 State and Federal Income taxes total \$5,058.00, (Petitioner's Exhibit #8) and are being held in the trust account of Wife's attorney.

14. The 2003 Volkswagen Jetta TDI, had a blue book value of \$10,135.00 and a payoff amount of approximately \$4,332.35, at the time of filing. (Petitioner's Exhibit #9). The equity in said vehicle was \$5,802.65 at the time of filing. Said vehicle has been in the possession of Wife since filing and was totaled and repaired by Wife after filing.
15. The 2005 Ford F-250 had a blue book value of \$25,180.00 at the time of filing (Petitioner's Exhibit #10), and a payoff amount represented by Husband to be \$28,565.00. The equity in said vehicle has a negative value. Said vehicle has been in the possession of Husband since filing.
16. The parties Joint Checking Account had a value of \$1,698.96 around the time of filing (Petitioner's Exhibit #11), the Fifth Third Bank Checking Account in Wife's name had a value of \$1,043.89 around the time of filing. (Petitioner's Exhibit #12), and the Tri-Health Federal Credit Union Account in Wife's name had a value of \$275.90 around the time of filing (Petitioner's Exhibit #13). Husband testified that he also had a bank account at Fifth Third Bank which had a value of approximately \$1,000.00 at the time of filing.
17. Some of the personal property of the parties was appraised totaling \$15,340.00. (Petitioner's Exhibit #3).
18. Some of the Personal Property of the parties was unavailable for appraisal, but was valued by Wife at an amount totaling \$5,210.00. (Petitioner's Exhibit #14).
19. At the time of filing, Wife had a Pension Plan with her employer, Good

Samaritan Hospital, valued at \$6,168.00 (Petitioner's Exhibit #15), a 403(B) Retirement Account with Good Samaritan Hospital valued at \$1,502.30 (Petitioner's Exhibit #17), and an I.R.A. from Guardian Savings Bank valued at \$277.53 (Petitioner's Exhibit #18), which was a rollover account from her employment before the marriage at Bob Evans. Husband had an Integra Bank I.R.A. valued at around \$1,818.61 at the time of filing.

20. At the time of filing, Wife owned Proctor and Gamble Stock valued at \$735.18 (Petitioner's Exhibit #19), and General Electric Stock valued at \$411.87 (Petitioner's Exhibit #20). Said stocks were gifted to Petitioner prior to marriage from family members.
21. At the time of filing, Husband had an interest in Brewington Solutions, LLC. Said interest has an unknown value.
22. At the time of filing, Husband had as an asset, a vested remainder interest in the Daniel P. Brewington Revocable Trust, (Respondent's Exhibit A), hereinafter referred to as the "Trust" valued at \$264,530.00 based upon the following:
 - A. Daniel P. Brewington, passed away on May 19, 1998, and at the time of his death was married to Sue A. Brewington and had two (2) children, namely, Respondent, Daniel Brewington and Matt Brewington.
 - B. The "Trust" became non-revocable upon the death of Daniel P. Brewington. As such, the beneficiaries interest in the "Trust" became vested upon Daniel P. Brewington's death.

- C. Pursuant to the "Trust", upon the death of Daniel P. Brewington, Sue A. Brewington, widow of Daniel P. Brewington, is entitled to receive the income from said trust during her lifetime. (Respondent's Exhibit A).
- D. Pursuant to the "Trust", upon the death of Sue Brewington, the balance held in said Trust is to be distributed to Daniel P. Brewington's legal issue. (Respondent's Exhibit A), namely, Husband Daniel Brewington, and his brother Matt Brewington. This Court finds that Husband owns a specific remainder interest in the Trust Estate subject to Sue Brewington's life estate. The Court finds that this constitutes a vested remainder interest which may be sold, transferred or mortgaged. That it has a present value as presented and set forth in Paragraph H below.
- E. Sue A. Brewington, Respondent's mother, was born August 24, 1946, and was sixty-two (62) years old at the time of the hearing.
- F. Pursuant to the testimony of Sue A. Brewington, the "Trust" was created for tax reasons and to ensure the farm land remained in the family.
- G. The real estate consisting of six tracts containing residence and outbuildings, consisting of 163+ acres is a part of the "Trust", was appraised at \$925,000 (Petitioner's Exhibit #1), and the real estate located at 4104 East County Road 300 N., Milan, Indiana, 47032,

containing the home utilized by the parties as their residence during the marriage and 78+ acres is a part of the "Trust" and was appraised at \$500,000.00. (Petitioner's Exhibit #2). As such, the total current appraised value of the proeprty in the "Trust" is \$1,425,000.00.

H. The value of Daniel and Matt Brewington's future interest or remainder interest in the 163+ acre parcel is \$343,425.00, as of the date of filing (Petitioner's Exhibit #5), and the value of Daniel and Matt Brewington's future or remainder interest in the 78+ acre parcel that contained the marital residence is \$185,635.00, as of the date of filing. (Petitioner's Exhibit #6). As such the total value of the future interest vested in both Daniel and Matt Brewington in the "Trust" was \$529,060.00, at the time of filing, and the value of the future interest attributable to Husband's share in the "Trust" was \$264,530.00, at the time of filing.

I. Based upon the testimony of Sue Brewington and Husband, Husband is continuing to live rent free in the home where the parties lived during the marriage, and will continue to do so for the foreseeable future. No time has been set for him to begin paying rent. Sue Brewington is not expecting to receive any payment as rent for the time that Husband and Wife resided in the home as it was a gift. Further, the parties were able to make any improvements on said property that they wished.

J. Based upon the testimony of Husband, Wife, and Sue Brewington,

Wife did much work to the marital home during the marriage and helped pay for many of the projects done to the home. Further, Wife's father helped with some of the major projects on the home.

23. Liabilities incurred during the marriage include the Target Credit Card valued at \$1591.52, the AT&T credit card valued at \$707.56, Macy's VISA valued at \$2,995.13, the Chase Mastercard valued at \$134.14, Chase VISA valued at \$4,444.49, the Citibank Mastercard valued at \$7,552.84, the Kohl's Card valued at \$929.44, the HH Gregg Card valued at \$1,115.10, and the Bank of America Card valued at \$5,502.10. (Petitioner's Exhibit #21). Some of said liabilities were incurred in purchasing some of the personal property.
24. At the time of filing, Wife claimed a loan to her parents for her educational costs totaling \$27,749.43, and Husband claimed a loan from his mother, Sue Brewington for approximately \$22,638.81. Neither of said loans were reduced to writing, had set schedules for payment, or had provisions for interest to be charged against the parties. Further, some of the loans incurred by Husband were for the 2005 Ford Truck and Brewington Solutions, LLC. The Court finds insufficient evidence that they exist as marital obligations. As such, said loans will not be included in the division of assets and liabilities.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. The bonds of matrimony heretofore existing between Petitioner and Respondent be and hereby are dissolved and forever set aside and the parties are restored to the state of unmarried persons.

2. Wife, Melissa Brewington is not now pregnant.
3. Wife, Melissa Brewington, shall have sole legal and physical custody of the children of the parties, namely, Mary Brewington born October 30, 2003, and Audrey Brewington born February 6, 2006.
4. Respondent/Husband, Daniel Brewington shall have visitation with the minor children as follows:
 - A. Respondent shall not be entitled to visitation until he undergoes a mental health evaluation with a Mental Health Care Provider approved by the Court. The purpose of this evaluation is to determine if he is possibly a danger to the children, Wife and /or to himself. Further, Husband shall follow all recommendations made by the Mental Health Care Provider.
 - B. If the Mental Health Care Provider determines that Husband is not a danger to the children, Wife, and/or to himself, Husband may have supervised visitation in a therapeutic setting for four (4) hours per week, in increments of two (2), two (2) hour visits per week. The Court shall make this determination after reviewing the evaluation. Visitation shall not begin until approved and ordered by the Court. If ordered, said supervised visitation shall be scheduled so as it does not interfere with the children's kindergarten and/or preschool schedules, and may be scheduled on weekends in which Wife works. Husband shall be responsible for obtaining the supervision in a therapeutic setting, and must provide Wife at least two (2) weeks

notice of the provider prior to setting any visitation. Husband shall be responsible for all expenses associated with the supervised visitation and must select a provider, to be approved by the Court, located within the Greater Cincinnati area.

- C. Husband may motion this Court for unsupervised visitation with the children, upon compliance with the recommendations of Mental Health Provider and recommendation by the provider of the supervised visitation, that unsupervised visitation may safely occur with the children.
- D. Husband must take all medications as prescribed and follow all recommendations of Mental Health Provider before supervised visitation may commence and/or continue.
- E. Because of the potential danger to the children, Husband must remove all postings created by him from the internet concerning the children before any unsupervised visitation may commence and/or continue.
- F. When the Court deems that it is appropriate following subsequent hearing or as agreed by the parties, the Court will consider Unsupervised Visitation between the Husband and the minor children shall in accord with Wife's Exhibit #34, and the holiday schedule in accord with Wife's Exhibit #24. See attached Exhibits "A" and "B".
- G. Should unsupervised visitation be reinstated, the parties shall exchange the children at the Bob Evans located on Northbend Road

in Cincinnati, Ohio.

- H. No overnight visitation shall occur between Husband and the minor children unless they are provided a room of their own.
 - I. Husband may not remove the children from the Tri-State area (Ohio, Kentucky, or Indiana) without Wife's consent or Court Order.
- 5. Both parties are restrained and enjoined from sharing any information concerning this dissolution with the minor children, except as needed per the advice of and assistance from a mental health provider.
 - 6. Both parties are enjoined and restrained from making any disparaging or derogatory comments concerning the other party or to the other party in the presence of the children.
 - 7. Husband is enjoined and restrained from interfering with Wife's attempt to find counseling for the minor children.
 - 8. Husband is enjoined and restrained from exposing the children to firearms.
 - 9. Husband is enjoined and restrained from exposing the children to any inappropriate movies.
 - 10. Beginning Friday, August 21, 2009, and continuing every Friday thereafter, Husband shall pay child support in the sum of \$176.65 per week to the State Central Collections Unit, P. O. Box 6219, Indianapolis, Indiana 46206, for the use and benefit of the minor children of the parties. Said amount is in accord with the Child Support Obligation Worksheet, a copy of which is attached hereto as Exhibit "C". (Petitioner's Exhibit #35). Husband shall also pay all annual support docketing fees as required by law.

11. The Wife shall be responsible for the first \$1,038.96 of all medical, hospital, dental, optical, orthodontia, psychological/psychiatric expenses not covered by insurance and incurred for the benefit of the minor children of the parties. All medical, hospital, dental, optical, orthodontia, psychological/psychiatric expenses not covered by insurance and incurred for the benefit of the minor children in excess of \$1,038.96 shall be divided as follows: 44.77% to Husband and 55.23% to Wife.
12. Wife shall be entitled to claim the children as her dependents for federal, state, and local income tax purposes in all tax years as Husband is not employed.
13. Husband is ordered to pay to Wife the sum of \$40,000.00 as a partial reimbursement of Wife's Attorney fees and Judgment is entered against Husband in this amount.
14. Husband is ordered to pay to Wife the sum of \$450.00 as partial reimbursement for said appraisal fees incurred and Judgment is entered against Husband in this amount.
15. Husband is ordered to pay to Wife the sum of \$2,100.00 as reimbursement for his share of the fees to Connor and Associates, PLLC., and Judgment is entered against Husband in this amount.
16. The Division of Assets and Liabilities shall be in accord with the Division of Assets and Liabilities attached hereto as Exhibit "D". Considering the inheritance of husband through the Trust, the Court finds that an unequal division of the marital estate is appropriate. Husband shall receive fifty-five

per cent (55%) and wife shall received forty-five per cent (45%) fo the marital estate. The gun safe is to be removed from the personal property list as Husband purchased the same after filing. Husband's Fifth Third Bank Account is to be added into the property division. The Court also denies wife's request for the stained glass window and the Venetian blinds as they are fixtures. Judgment is entered in favor of Wife and against Husband in the amount of \$122,280.80 as set forth in Exhibit D attached.

17. Wife shall be entitled to pick up her items from the marital home within thirty (30) days of the issuance of this Order. The Ripley County Sheriff's Department shall supervise the exchange of property in accord with paragraph #14. The specific time and place of the exchange shall be at the convenience of Wife and the Ripley County Sheriff's Department.
18. Husband shall pay to Wife the sum of \$640.00 to replace the funds Husband removed from the account containing Mary Brewington's money from birthdays, holidays and other events. Wife shall place said amount in the custodial bank account that she has set up for Mary Brewington, and said funds are to be used for Mary Brewington's benefit.
19. Husband shall be restrained and enjoined from abusing, harassing, or disturbing the peace of or committing any assault or battery upon the Wife and the children of the parties.

SO ORDERED THIS 17 DAY OF August, 2009.


JAMES D. HUMPHREY, SPECIAL JUDGE
RIPLEY CIRCUIT COURT

c.c. Angela G. Loechel, Esq.

Daniel Brewington, Respondent/Husband
4104 East County road 300 N
Milan, Indiana 47031

**Petitioners Proposal For Parenting Time Schedule, Weekend Schedule,
and Holiday/Special Occasions Schedule**
UNSUPERVISED

Parenting time for Respondent

-During school year, no overnights through the week. Respondent shall have visitation on Wednesdays starting at 3:30 P.M. when he picks the children up from school/daycare until 8 P.M. when he will return the children to Mother after she gets off work. Also, equal weekend time, taking into account mother has to work every third weekend.

-During summer break, standard parenting time with Wednesday overnight and equal weekend time, taking into account mother has to work every third weekend. Respondent's visitation shall begin on Wednesdays at 3:30 P.M. when he picks the children up from daycare and returning the children to Mother at 8 A.M. the following morning.

Equal Division of Weekend Time (Taking into account mother has to work every third weekend) shall be as follows:

-Respondents visitation weekend time with the children will always start from the time he picks them up from school/daycare on Friday at 3:30 P.M. and end on Sunday at 8 P.M.

-Respondents weekend time will always fall on Mothers work weekend

-Mothers weekend time will always fall on the weekend following mothers work weekend

-The remaining weekends in the year will be divided in a rotating fashion (Melissa, Dan, Melissa, Dan, etc.)

Holiday Schedule

Special Days

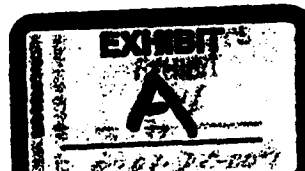
(1) Mother's Day. With the child's mother from 8 A.M. until 8 P.M.

(2) Father's Day. With the child's father from 8 A.M. until 8 P.M.

(3) Child's Birthday. In even numbered years the non-custodial parent shall have all of the children on each child's birthday from 9 A.M. until 9 P.M. However, if the birthday falls on a school day, then from 5 P.M. until 8 P.M.

(4) Parent's Birthday. From 9 A.M. until 9 P.M. with that parent, however, if the parent's birthday falls on a school day, then from 5 P.M. until 8 P.M.

Holidays



-Both parties shall follow the holiday schedules prepared by the Petitioner for 2009-2014. In 2015, the six year holiday schedule will repeat itself starting with the 2009 schedule again.

-For the Christmas Holiday, the parent who is supposed to have the children on Christmas Eve shall have the children from December 23rd at 8 P.M. through December 24th at 9 P.M. The parent who is supposed to have the children on Christmas Day shall have the children from December 24th at 9 P.M. until December 26th at 8 A.M.

-The time schedule for all holidays not specifically mentioned above will begin at 8 A.M. and end at 8 A.M. the following day, unless the holiday falls on a school night, then visitation will end at 8 P.M. on that holiday

Conflicts Between Regular and Holiday Time

-The Holiday Parenting Time Schedule shall take precedence over regularly scheduled parenting time.

-If the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating parenting time schedule will resume following the holiday. If the non-custodial parent receives two consecutive weekends because of the holiday, the regular alternating parenting time schedule will resume the following weekend with the custodial parent.

If Mother takes a vacation day and is off on a day she would normally work, she will care for the children on that day

Petitioners Proposed Holiday Schedules For 2009 to 2014

2009

Dan

New Years Day
July 4th.
Christmas Day
Thanksgiving
Memorial Day

Melissa

New Years Eve
Halloween
Christmas Eve
Easter
Labor Day

2010

Dan

Memorial Day
Thanksgiving
New Years Eve
Halloween
Christmas Eve

Melissa

Labor Day
Easter
New Years Day
July 4th.
Christmas Day

2011

Dan

Labor Day
Christmas Eve
Easter
Halloween
New Years Eve

Melissa

Memorial Day
Christmas Day
Thanksgiving
July 4th.
New Years Day

2012

Dan

New Years Day
July 4th.
Christmas Day
Easter
Labor Day

Melissa

New Years Eve
Halloween
Christmas Eve
Thanksgiving
Memorial Day

2013

Dan

Memorial Day
Thanksgiving
New Years Eve
July 4th.
Christmas Day

Melissa

Labor Day
Easter
New Years Day
Halloween
Christmas Eve

2014

Dan

Labor Day
Christmas Eve
Halloween
New Years Day
Easter

Melissa

Memorial Day
Christmas Day
July 4th.
New Years Eve
Thanksgiving



IN RE: THE MARRIAGE OF
Melissa Brewington and
Daniel Brewington

CASE NO.: 69C01-0701-DR-007
FATHER: DANIEL BREWINGTON
MOTHER: MELISSA BREWINGTON

CHILD SUPPORT OBLIGATION WORKSHEET (CSOW)

Children	DOB	Children	DOB
Mary Brewington	10/3/03	Audrey Brewington	2/6/06

0. WEEKLY GROSS INCOME	FATHER	MOTHER	
Multipliers .935 .903 .878 .863 .854	\$714.71	\$881.55	
Subsequent Children in the home	0	0	
1. WEEKLY GROSS INCOME (multiplied)	\$714.71	\$881.55	
A. Child Support Order for prior born	\$0.00	\$0.00	
B. Child Support Duty for prior born	\$0.00	\$0.00	
C. Maintenance Paid	\$0.00	\$0.00	
D. WEEKLY ADJUSTED INCOME (WAI)	\$714.71	\$881.55	\$1,596.26
2. PERCENTAGE SHARE OF TOTAL WAI	44.7740%	55.2260%	
3. COMBINED WEEKLY ADJUSTED INCOME			\$1,596.26
4. BASIC CHILD SUPPORT OBLIGATION			\$333.00
A. Work-related Child Care Expense	\$0.00	\$174.71	\$174.71
B. Weekly health premium for children			\$20.80
5. TOTAL CHILD SUPPORT OBLIGATION			\$528.51
6. PARENT'S CHILD SUPPORT OBLIGATION	\$236.64	\$291.87	
7. Adjustment from Line J.	\$0.00	\$0.00	
Credit for child care expense	\$0.00	\$174.71	
Credit for health premium	\$0.00	\$20.80	
Credit for parenting time for 098 overnights	\$59.99	\$0.00	
8. RECOMMENDED SUPPORT OBLIGATION	\$176.65		

EXPLAIN ANY DEVIATION FROM GUIDELINE SCHEDULES IN ORDER/DECREE

I affirm under the penalties for perjury the foregoing representations are true.

Preparer: Angela Loechel

Father: _____

Dated: 05/26/2009

Mother: _____

Mother should pay the first \$1,038.96 annual uninsured medical.
Calculated for 2 at home and 0 at college using year 2009 guidelines and 098 overnights.
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EXHIBIT

C

IN RE: THE MARRIAGE OF
Melissa Brewington and
Daniel Brewington

CASE NO.: 69C01-0701-DR-007
FATHER: DANIEL BREWINGTON
MOTHER: MELISSA BREWINGTON

POST-SECONDARY EDUCATION WORKSHEET (PSEW)

Child:

DOB

SECTION ONE: EDUCATION EXPENSE

FATHER

MOTHER

A. Percent Share of Total WAI Line 2

44.7740%

55.2260%

B. Education Costs:

(1) Tuition

(2) Room & Board

(3) Books

(4) Fees

(5) Other

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

TOTAL EDUCATION COSTS

\$0.00

C. Child's Share:

(1) Scholarships

(2) Grants in Aid

(3) Student Loans

(4) Child's Cash Share

(5) Other

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

TOTAL CREDITS

\$0.00

D. Parents' Total Obligation:

\$0.00

Parents' Share: Line A x Line D

\$0.00

\$0.00

SECTION TWO: DETERMINATION OF SUPPORT WHILE STUDENT AT HOME

E. Weeks Student Lives at Home

00

Divided by 52 =

0.0000%

F. Basic Child Support Obligation For All Children
Including Students (Apply CWA from Line 3)

\$333.00

G. Basic Child Support Obligation For Children Living With
Custodial Parent (From Line 4. If Student is only child, \$0)

\$333.00

H. Weekly Child Support Obligation Attributable to Student
Living Away From Home (subtract Line G from Line F)

\$0.00

I. Calculation of Support Obligation for Student
Multiply Line H x Line E

\$0.00

J. Parents' Weekly Support Obligations:
Line A x Line I

\$0.00

\$0.00

Line J is reflected in Section 7 of the Child Support Obligation worksheet.

Comments:

Calculated for 2 at home and 0 at college using year 2009 guidelines and 098 overnights.

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IN RE: THE MARRIAGE OF
Melissa Brewington and
Daniel Brewington

CASE NO.: 69C01-0701-DR-007
FATHER: DANIEL BREWINGTON
MOTHER: MELISSA BREWINGTON

PARENTING TIME CREDIT WORKSHEET (PTCW)

Line:		
1PT	Enter Annual Number of Overnights	098
2PT	Enter Weekly Basic Child Support Obligation - BCSO (Enter Line 4 from Child Support Worksheet)	\$333.00
3PT	Enter Total Parenting Time Expenses as a Percentage of the BCSO (Enter Appropriate TOTAL Entry from Table PT)	25.0%
4PT	Enter Duplicated Expenses as a Percentage of the BCSO (Enter Appropriate DUPLICATED Entry from Table PT)	15.6%
5PT	Parent's Share of Combined Weekly Income (Enter Line 2 from Child Support Worksheet)	44.7740%
6PT	Average Weekly Total Expenses during Parenting Time Time (Multiply Line 2PT times Line 3PT)	\$83.25
7PT	Average Weekly Duplicated Expenses (Multiply Line 2PT times Line 4PT)	\$51.95
8PT	Parent's Share of Duplicated Expenses (Multiply Line 5PT times Line 7PT)	\$23.26
9PT	Allowable Expenses during Parenting Time (Line 6PT - Line 8PT)	\$59.99
	Enter Line 9PT on Line 7 of the Child Support Worksheet as the Parenting Time Credit	

DIVISION OF ASSETS & LIABILITIES

1. Wife - Melissa Brewington:

Assets:

A. Monies from 2006 State & Federal taxes held in trust:	\$ 5,058.00
B. 2003 Volkswagen Jetta TDI - Insurance proceeds	\$ 5,802.65
C. Fifth Third Bank - Joint Checking Account	\$ 1,698.96
D. Fifth Third Bank - Checking Account	\$ 1,043.89
E. Tri-Health Federal Credit Union	\$ 275.90
F. Appraised Personal Property (see, expanded list)	\$ 7,750.00
G. Personal Property made unavailable for appraisal (see, expanded list)	\$ 375.00
H. Good Samaritan Hospital Pension Plan	\$ 6,168.00
I. Good Samaritan Hospital 403(B) Retirement Account	\$ 1,502.30
J. Guardian Savings Bank I.R.A. (Rollover from Bob Evans	\$ 277.53
K. P&G Stock	\$ 735.18
L. G.E. Stock	\$ <u>411.87</u>
ASSETS	\$ 31,099.28

Liabilities:

A. Target Credit Card	\$ 1,591.52
B. AT&T Card	\$ 707.56
C. Macy's VISA	\$ 2,995.13
D. Chase Mastercard	\$ 134.14
E. Chase VISA	\$ 4,444.49
F. Citibank Mastercard	\$ 7,552.84
G. Kohl's Card	\$ 929.44
H. HHGregg Card	\$ 1,115.10
I. Bank of America Card	\$ <u>5,502.10</u>
LIABILITIES	\$ 24,972.32

TOTAL ASSETS **LESS** TOTAL LIABILITIES:..... \$ 6,126.96

2. Husband - Daniel Brewington

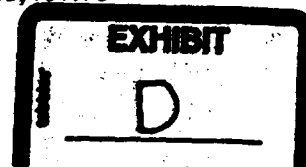
Assets:

A. 2005 Ford F-250	\$ 0.00
B. Integra Bank I.R.A.	\$ 1,818.61
C. Appraised Personal Property (see, expanded list)	\$ 7,040.00
D. Personal Property made unavailable for appraisal (see, expanded list)	\$ 4,835.00
E. Value of Remainder interest in trust	\$264,530.00
F. Brewington Solutions	\$ unknown
G. Fifth Third Bank Account	\$ 1,000.00
TOTAL ASSETS	\$279,223.61

NET MARITAL ESTATE----- \$285,350.57

A. Judgment owed to Melissa Brewington to effectuate 55%/45% distribution: (\$122,280.80)

TOTAL DANIEL IS TO RECEIVE FROM MARITAL ESTATE (55%): \$156,942.81
TOTAL MELISSA IS TO RECEIVE FROM MARITAL ESTATE (45%): \$128,407.76



PETITIONER'S PROPOSED PERSONAL PROPERTY DIVISION

1. PERSONAL PROPERTY REQUESTED TO BE AWARDED TO MELISSA:

A. Appraised Personal Property requested by Melissa:

Kitchen:

Pot/Pan Rack, wrought iron, hanging	\$ 20.00
Vacuum Sweeper, Eureka, "The Boss"	\$ 25.00
Microwave oven	\$ 15.00
Belgian Waffle Maker, Waring	\$ 20.00
Coffee Maker, Cuisinart	\$ 20.00
Six (6) Longaberger Baskets	\$ 300.00

Dining Room:

Computer Desk	\$ 50.00
Rack, wrought iron	\$ 25.00
Floor lamps, wrought iron, 2	\$ 50.00
Dining Room Suite, oak, includes 8' table w/ 2 leaves, 8 matching chairs, china cabinet, buffet (purchased 2004 for \$4,400.00)	\$ 2,000.00
Art print, "Zinnias"	\$ 25.00
Salad Bowl set, 2 piece, Paisely pottery	\$ 25.00
China, Waterford, "Linmore Platinum", service for 10+1	\$ 500.00
Glassware, crystal, "Gorham", "Lady Ann", incl. Wines, High balls, water, tea	\$ 100.00
Rug, 8'x10', woven, old, showing wear	\$ 50.00

Bath:

Washer & Dryer, automatic, Frigidaire, electric, newer (Purchased 2006 for \$1,500.00)	\$ 500.00
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Parlor:

Television, Hitachi, 50" on stand	\$ 500.00
Shelves, end, 2	\$ 50.00
½ Night Stands, 2 total	\$ 25.00
Bench w/seat	\$ 50.00
Table, library	\$ 50.00
½ of Movies, DVD, approx. 80 total	\$ 40.00
Art Print by Blakely	\$ 50.00
Luggage, 3 piece set, "Atlantic"	\$ 50.00

Misc. household in closet	\$ 50.00
Iron, steam	\$ 15.00
Bread Machine	\$ 25.00

Upstairs Room #1:

Night Stand	\$ 20.00
Bedroom Suite (Bed, Chest, mirrored Dresser)	\$ 150.00
Television (Polaroid - 21" flat screen)	\$ 100.00
Mattress & Box Springs - queen size	\$ 50.00
Ice Bucket, Gorham	\$ 10.00

Upstairs Room #2:

Chest	\$ 50.00
Dresser	\$ 50.00
Mirror, Standing	\$ 50.00
Night Lamps, Tiffany design - 3	\$ 75.00
Night Stand	\$ 10.00
Sofa, sectional 3 piece, green fabric, Bauhaus	\$ 100.00
Coffee Table, glass top	\$ 50.00
Mirror, beveled, 18" x 24"	\$ 10.00
Blanket Box w/ tray	\$ 50.00
TV Cabinet, Cherry w/ glass slide doors	\$ 100.00

Upstairs Room #3:

Bed, sleigh, queen size, newer	\$ 100.00
Glass & Pottery, Gorham, 4 piece w/pitcher, platter	\$ 100.00
Silverware, Gorham, sterling silver service for 10	\$ 250.00

Garage, Barn, Outdoors:

Stained Glass Kit/Box & Misc. materials	\$ 25.00
Porch Rockers, 3	\$ 75.00
Horse	\$ 200.00

Items brought to appraiser's office:

Saddles, western, complete, 2	\$ 200.00
C.Ds, approx. 70	\$ 70.00
Camcorder, Sony digital	\$ 100.00
Necklace, platinum	\$ 25.00
Ear Rings, diamond studs	\$ 100.00
Engagement and Wedding Bands, platinum w/diamond sets	\$ 1,000.00

TOTAL APPRAISED ITEMS REQUESTED BY MELISSA \$ 7,750.00

B. Items requested by Melissa not made available for appraisal:

Electric Tree Trimmer	\$ 100.00
Sewing Machine	\$ 75.00
.357 Handgun	\$ 200.00

TOTAL REQUESTED BY MELISSA UNAVAILABLE FOR APPRAISAL: \$ 375.00

2. PERSONAL PROPERTY TO BE AWARDED TO DAN:

C. Appraised Property for Dan:

Kitchen:

Refrigerator/Freezer	\$ 100.00
Dishwasher	\$ 20.00
Freezer	\$ 50.00
Range/Oven	\$ 50.00
Microwave Stand, pine wood	\$ 10.00
Grain Mill	\$ 25.00
Pizza Maker	\$ 10.00

Dining Room:

Printer/Scanner/Fax, Hewlet Packard	\$ 25.00
Computer, e-Machine	\$ 100.00
Exercise Equipment, Treadmill, Nordic Track	\$ 200.00
Saxophone, alto, Selmer, Bundy II	\$ 100.00
Camera Tripod	\$ 25.00
Camera, digital, Canon, Rebel XT	\$ 100.00

Parlor:

DVD player	\$ 25.00
Aquarium	\$ 10.00
½ of Night Stands, 2 total	\$ 25.00
½ of Movies, approx. 80 total	\$ 40.00
Stereo system, Pioneer	\$ 100.00
Office File	\$ 25.00
Computer Laptop	\$ 200.00
Computer desk, older	\$ 10.00
Rifle, black powder, Hawken	\$ 125.00
Rifle, Savage, model 64	\$ 100.00
Rifle, black powder, Wolf Magnum	\$ 125.00
Rifle, Savage, Model 110	\$ 250.00
Rifle, .22 caliber	\$ 150.00
Shotgun, Marlin "Slugmaster"	\$ 200.00
Rug Shampooer, Dirt Devil	\$ 50.00
DVD Player, Polaroid	\$ 75.00

Picture Maker, digital, Hewlitt-Packard	\$	25.00
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Upstairs Room #1:

DVD Player	\$	25.00
Telescope, Meade	\$	75.00

Upstairs Room #2:

Shop Vac	\$	25.00
Camera, Canon, "Power Shot"	\$	100.00
Scanner, Lexmark	\$	25.00
Bookcase, 4 shelf, faux wood	\$	10.00
Television, Zenith, 24" older w/ VCR	\$	50.00

Upstairs Room #3

Dresser (childrens)	\$	50.00
Silverware, Wallace, 65 pieces, service for 12, gold finish	\$	100.00
Pitcher, Bybee Pottery	\$	25.00

Garage, Barn, Outdoors:

Grill	\$	100.00
Tool Cabinet & contained Tools	\$	500.00
Sand Blasting Cabinet	\$	200.00
Golf Clubs & misc.	\$	100.00
Flyrod	\$	200.00
Misc. Fishing Rods & Reels	\$	100.00
Wet/Dry Vacuum	\$	25.00
Bean/Soup pot	\$	20.00
Tools, misc. cast iron, antique	\$	25.00
Bench vise	\$	10.00
Heater, oil/electric	\$	25.00
Bench Grinder	\$	10.00
Saxophone	\$	200.00
Kitchen chairs, wood, 4	\$	80.00
Pegboard w/ misc. tools	\$	25.00
Rendering kettle	\$	100.00
Leaf blower	\$	25.00
Cider press	\$	200.00
Tool Box	\$	25.00
Shelving - steel, commercial, 5 sections	\$	500.00
Misc. Hand Tools	\$	200.00
Lawn Furniture, 4 chairs & firepit	\$	50.00
Bench Vise	\$	25.00
Lawn Tractor, Craftsman	\$	200.00
Commercial Mower, Jacobsen	\$	200.00
Lawn Tractor, Craftsman (not running)	\$	50.00
Lawn Sweeper	\$	50.00
Fuel Tank w/stand	\$	50.00

Water Tank	\$ 25.00
Pressure washer	\$ 50.00
Lawn mower, self propelled	\$ 25.00
Table saw	\$ 75.00
Reel Sharpener, Fate-Root	\$ 100.00
Round Bale Ring/Corral	\$ 50.00
PVC Pipe Fixtures	\$ 25.00
Pipe Gate, 10'	\$ 10.00
Portable Greenhouse, glass/fiberglass	\$ 500.00
Jon-Boat, 10' aluminum	\$ 50.00

TOTAL APPRAISED ITEMS FOR DAN \$ 7,040.00

ITEMS MISSING FROM APPRAISAL FOR DAN

Cub Cadet lawn mower	\$ 1000.00
Golf Green Lawn Mower and other misc. golf green supplies (Seeders, aerators, ground flattener, sprinklers, etc.)	\$ 500.00
Snow Blower	\$ 800.00
Black Trailer	\$ 200.00
Car Jack	\$ 35.00
Polaris 4-Wheeler # 1	\$ 500.00
Polaris 4-Wheeler # 2	\$ 500.00
Fiber glass step ladder and other ladders	\$ 100.00
Rototiller	\$ 100.00
IPOD	\$ 75.00
Aluminum break	\$ 450.00
Kitchen Table	\$ 100.00
Chain Saw	\$ 100.00
Paint Sprayer	\$ 150.00
Bow for Hunting	\$ 75.00
Hunting Tree Stand	\$ 50.00
Golf Clubs (multiple sets)	\$ 100.00

TOTAL OF DAN'S ITEMS NOT MADE AVAILABLE FOR APPRAISAL \$4,835.00