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IN THE CIRCUIT COURT OF PIKE COUNTY
FAMILY COURT DIVISION

MORGAN ELAINE GRAVER,)
Petitioner,)
)
vs.) Cause No. 12PI-FC00120-02
)
DUSTIN GLENN GRAVER,)
Respondent.)

AMENDED MOTION TO MODIFY CUSTODY AND SUPPORT, OBJECTION TO RELOCATION, AND MOTION TO CITE FOR CONTEMPT AND/OR TO SHOW CAUSE

COMES NOW Petitioner Morgan Graver k/n/a Bresnahan, by and through the undersigned Counsel, for her Amended Motion to Modify Custody and Support, Objection to Relocation, and Motion to Cite for Contempt and/or to Show Cause and states to the Court as follows:

COUNT I – AMENDED MOTION TO MODIFY

1. On September 5, 2013 a Judgment of Dissolution of Marriage was entered by this Court dissolving the marriage between Morgan Graver and Dustin Graver.
2. The parties were awarded joint legal and physical custody of the minor child, [redacted] now aged [redacted], with Respondent ordered to pay to Petitioner the sum of [redacted] per month as and for child support.
3. On or about January 5, 2018, a Judgment of Modification was entered by this Court altering the amount of child support to [redacted] per month.
4. That pursuant to the parenting plan entered by this Court, Respondent was awarded visitation with the minor child every other weekend from 4:00 p.m. on Friday until

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8:00 a.m. on Monday and 4:00 p.m. on Thursday to 4:00 p.m. on Friday during the weeks that he does not have weekend visitation.

5. In accordance with Section 452.480 RSMo. (Supp. 1994), Petitioner states:

   a. Actual physical custody of the minor child has been with Petitioner since the date of last judgment a[redacted]

   b. Petitioner has not participated in any capacity in any other litigation concerning the custody of the minor child in this state or any other except the dissolution and prior modification case.

   c. Petitioner has no knowledge or information of any custody proceeding concerning the minor child pending in any Court of this State or any other.

   d. Petitioner has no knowledge of any person not a party to this proceeding who has physical custody of the minor child or claims to have custody or visitation rights with respect to the minor child.

6. Since the date of the Judgment, there have been changed circumstances so substantial and continuing as to make a modification of the Judgment necessary to serve the best interests of Petitioner and the minor child including, but not limited to, the following:

   a. That Respondent frequently does not appear for his scheduled visitation periods with the minor child and refuses to communicate with Petitioner.

   b. If the Respondent does appear for the visitation with the minor child, he cedes his visitation to the paternal grandparents or other paternal relatives.

   c. That Respondent has made degrading comments about Petitioner in front of the minor child, both verbally and via text message and Talking Parents.

d. That Respondent communicated with the minor child that he will not take the minor child to any of his football games if they fall within his visitation period, an action that emotionally disturbs the minor child and discourages him from playing football or other extracurricular activities.

e. That Respondent has recently moved from Bowling Green, Missouri to Perry, Illinois and then back to Bowling Green, Missouri an action that violates the parenting plan entered by this court.

i. That Respondent failed to give notice of the proposed relocation via certified mail, return receipt requested.

f. That Respondent frequently left the minor child at home alone and unsupervised for periods of time, which would put the minor child in danger of exposure to the registered sex offender.

g. Respondent has failed to exercise his custody time on any sort of regular basis, only exercising on average one partial weekend per month. Respondent has failed to exercise summer custody time for several years.

h. Respondent has failed to reach agreement with Petitioner on major legal custody issues, such as the child attending counseling.

7. That it would be in the best interest of the minor child that Petitioner be awarded sole legal and sole physical custody of the minor child with visitation one weekend per month.

8. Petitioner requests an increase in child support retroactive to the date of filing.

WHEREFORE Petitioner prays that this Court enter a judgment granting Petitioner sole legal and sole physical custody of the minor child, for child support in accordance

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with the Form 14 retroactive to the date of filing, for Petitioner's legal fees, and any other orders that this Court seem just and proper in the premises

COUNT II – OBJECTION TO RELOCATION

9. Petitioner hereby incorporates Paragraphs 1 – 8 as if fully set forth herein.

10. That on or about June 2, 2021, Respondent listed his home in Bowling Green, Missouri for sale and that the sale of the home has been completed during the pendency of the case.

11. That on or about June 20, 2021, Respondent sent a message to Petitioner via the Talking Parents app that he was selling the house and relocating to Perry, Illinois.

12. That as instructed per the parenting plan entered by this Court, "Notice of a proposed relocation of the residence of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, to any party with custody of visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be provided at least sixty days in advance of the proposed relocation.".

13. That Respondent failed to notify Petitioner in writing by certified mail prior to the relocation and that Respondent failed to give at least sixty days' notice.

14. That Respondent's failure to give notice was not in good faith as he has both sold his own house and built a house in Illinois.

15. That Petitioner objects to the relocation due, in part, to the following reasons:

    a. Respondent fails to consistently exercise visitation without added distance.

    b. Respondent changes and/or forfeits the visitation schedule without proper notice.

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c. Respondent has previously threatened to withhold the child and is frequently significantly late for exchanges.

d. Respondent fails to give notice when traveling beyond state lines or out of the area.

e. As a result of (a) and (d), Petitioner does not want the minor child traversing state lines to engage in visitation.

f. Respondent will be residing within close proximity to a registered sex offender whose offense involved a minor child roughly the same age as the parties minor child.

g. That the minor child will be forced to be absent from football, a sport he plays with his school, and any other extracurricular activities while in Respondent's custody.

See Affidavit in Support, attached hereto and incorporated by Reference.

WHEREFORE Petitioner requests that the proposed relocation be denied and that the minor child be prohibited from relocation to the State of Illinois, that the Court order Respondent to pay the incurred attorney fees brought by this action, and any other orders that this Court deem just and proper in the premises.

COUNT III – CONTEMPT

16. Petitioner hereby incorporates Paragraphs 1-15 as if fully set forth herein.

17. On or about September 5, 2013, this Court entered a Judgment of Dissolution of Marriage between Petitioner and Respondent..

18. Pursuant to the Judgment and Marital Settlement and Separation Agreement, Respondent was subject to the following provision: "notice of a proposed relocation

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of the resident of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, to any party with custody or visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be provided at least sixty days in advance of the proposed relocation.".

19. Similarly, Missouri Statute 452.377 states "notice of a proposed relocation of the residence of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, ro any party with custody or visitation rights.".
20. Respondent was represented by counsel at the time of the entry of the Judgment.
21. Respondent is capable of following the Court's Orders and the state statutes.
22. However, Respondent failed to provide timely notice via certified mail, return receipt requested.
23. Further, Respondent has engaged in a pattern of harassing and threatening contact. The parties are ordered to communicate with one another through Talking Parents. However, Respondent calls Petitioner incessantly and angrily (up to twenty times per hour) when he wants an answer to non-emergent issues. Respondent has placed spyware on the minor child's phone and when Petitioner's husband was present helping the minor child with the phone Respondent texted an image of his foot with at caption saying: "stay off my [redacted] phone". Respondent also threatens Petitioner's spouse, resulting in police reports ([redacted]

24. Additionally, Respondent has directly told the minor child via text and in person such things as:

a. [redacted]

b. [redacted]

c. [redacted]

d. [redacted]

e. [redacted]

f. [redacted]

g. [redacted]

h. Said communications are in violation of the underlying Parenting Plan.

25. Respondent's failure to obey this Court's Orders and state statutes constitutes direct, contumacious, willful and deliberate violations of this Court's Orders.

26. Respondent's direct, contumacious, willful and deliberate violations of this Court's Orders has caused emotional distress and financial hardship on Petitioner.

WHEREFORE Petitioner requests that this Court issue an Order to Show Cause directed to Respondent Dustin Graver, ordering him to appear before this Court of a specified date and time, to them and there show cause why he should not be held in contempt of this Court and why judgment for contempt should not be entered against him, that Respondent be confined in an appropriate penal institution until such time the contempt can be cured, that Respondent be ordered to reimburse Petitioner for any and all financial loss due to Respondent's violations of this Court's orders, that Respondent be ordered to pay Petitioner's reasonable attorney's fees and

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the costs expended herein, and for such other and further relief as may be just and proper in the premises.

Morgan E. Bresnahan

MORGAN ELAINE GRAVER n/k/a BRESNAHAN

Morgan E. Bresnahan

MORGAN ELAINE GRAVER n/k/a BRESNAHAN

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this 10 day of July, 2023, before me personally appeared MORGAN ELAINE GRAVER n/k/a BRESNAHAN, to me known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

ANGELIQUE TRAVERS
Notary Public - Notary Seal
State of Missouri
St Charles County
My Commission Expires 01-27-2026
Commission # 22275507

Notary Public

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Respectfully submitted,
McCARTHY, LEONARD & KAEMMERER, L.C.

By: /s/ Laura H. Stobie

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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of July, 2023, a true and exact copy of the foregoing was served via efiling to all parties of record.

/s/ Laura H. Stobie