

7294

CAUSE NO. D-1-FM-16-00 _____

IN THE MATTER OF
THE MARRIAGE OF

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§
§
§

IN THE DISTRICT COURT

201ST

_____ JUDICIAL DISTRICT

MPS
AND
LLD

TRAVIS COUNTY, TEXAS

ORIGINAL PETITION FOR DIVORCE AND REQUEST FOR TEMPORARY ORDERS

Parties

This suit is brought by MARINA P. SIFUENTES, Petitioner, who is 62 years of age and who resides at 2510 Camino Alto, Austin, Travis County, Texas 78746. LENDOL L. DAVIS, Respondent, is 76 years of age and resides in Travis County, Texas.

Domicile

MARINA P. SIFUENTES and LENDOL L. DAVIS have been domiciliaries of Texas for the preceding six-month period, and MARINA P. SIFUENTES and LENDOL L. DAVIS have been residents of this county for the preceding 90-day period.

Service

Process should be effected on LENDOL L. DAVIS by delivering a copy of this *Original Petition for Divorce, Request for Temporary Orders and Other Relief* to LENDOL L. DAVIS at 1902 S. IH 35 Frontage Road #B, Austin, Texas 78704, or wherever he may be found.

Discovery Level

MARINA P. SIFUENTES moves the Court to order that discovery be conducted under Level 3 in accordance with a discovery control plan tailored to the circumstances of this specific suit. Petitioner anticipates the parties will agree upon procedures for finalization of their divorce.

Protective Order

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.

Date of Marriage and Separation

The parties were married on or about November 19, 1978, and plan to separate.

Grounds For Divorce

The marriage has become insupportable because of discord or conflict of personalities between MARINA P. SIFUENTES and LENDOL L. DAVIS that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

Children of the Marriage

There are no children eighteen (18) years of age or younger born or adopted of this marriage, and none is expected. The parties have two adult children.

Division of Community Property

MARINA P. SIFUENTES and LENDOL L. DAVIS own certain community property and the parties have incurred certain community debts and liabilities. MARINA P. SIFUENTES believes that MARINA P. SIFUENTES and LENDOL L. DAVIS will enter into an agreement for the division of their property, debts, and liabilities. If such an agreement is made, MARINA P. SIFUENTES requests the Court approve the agreement and divide their estate in a manner consistent with the agreement.

If such an agreement is not made, MARINA P. SIFUENTES requests that the Court divide their estate in a manner that the Court deems just and right, as provided by law.

Separate Property

MARINA P. SIFUENTES owns certain separate property that is not part of the community estate of the parties, and MARINA P. SIFUENTES requests the Court confirm that separate property as MARINA P. SIFUENTES' separate property and estate.

Request for Temporary Orders Concerning Use of Property

MARINA P. SIFUENTES requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders and issue any appropriate temporary injunctions respecting the temporary use of the parties' property as deemed necessary and equitable, including, but not limited to, the following:

Awarding MARINA P. SIFUENTES the exclusive use and possession of the residence and real property located at 2507 and 2510 Camino Alto, Austin, Travis County, Texas 78746, and of certain furniture, furnishings, tools, appliances, yard equipment, computer equipment, decorative items, and other property presently located at and/or used in connection with the property located at 2510 Camino Alto, Austin, Travis County, Texas 78746, during the pendency of this suit.

Ordering that the real property and improvements located at 2507 and 2510 Camino Alto, Austin, Travis County, Texas 78746, be immediately listed for sale and that LENDOL L. DAVIS be ordered to cooperate in listing the property for sale and marketing the property to prospective buyers, and that on sale the proceeds from sale be escrowed during the pendency of this suit.

Awarding MARINA P. SIFUENTES exclusive use and control of the 2015 Toyota Prius motor vehicle in MARINA P. SIFUENTES' possession, and enjoining LENDOL L. DAVIS from entering, operating, or exercising control over it.

Awarding MARINA P. SIFUENTES the exclusive use and management of the following properties during the pendency of this suit:

4203 James Casey, Austin, Texas 78745
4207 James Casey, Austin, Texas 78745
1920 IH 35 South, Austin, Texas 78704
810 Banister #820, Austin, Texas 78704

Request for Temporary Orders for Support, Attorney's Fees and Other Issues

MARINA P. SIFUENTES requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders and issue any appropriate temporary injunctions regarding attorney's fees and support as deemed necessary and equitable, including but not limited to the following:

Ordering LENDOL L. DAVIS to make payments for the support of MARINA P.

SIFUENTES until a final decree is signed.

Ordering LENDOL L. DAVIS to pay interim attorney's fees and expenses, including but not limited to fees for attorneys, appraisals, accountants, actuaries, and so forth.

Ordering LENDOL L. DAVIS to maintain at his sole cost and expense the health insurance policy insuring MARINA P. SIFUENTES and ordering LENDOL L. DAVIS to pay all uninsured medical, dental and mental health care expenses for MARINA P. SIFUENTES until a final decree is signed.

Request for Temporary Orders for Discovery and Ancillary Relief

MARINA P. SIFUENTES requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders for discovery and ancillary relief as deemed necessary and equitable, including, but not limited to, the following:

Ordering LENDOL L. DAVIS to file a sworn inventory and appraisal of all the separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties substantially in the form and detail prescribed by the Texas Family Law Practice Manual (3d. ed.), Form 7-1, which inventory shall include, but not be limited to, the following:

- a. A complete listing and description of all real and personal community property, including accounts receivable.
- b. A complete listing and description of all secured and unsecured debts of the parties, including accounts payable and loans due.
- c. The estimated present fair market value of any and all real and personal property or claims of either or both of the parties.
- d. The present balance owed on, and any minimum monthly payments due on, any debts or liabilities of the parties.
- e. Any contingent assets or liabilities of either or both of the parties.
- f. The separate real or personal property claimed to be, or conceded to be, the separate real or personal property of either party, including, but not limited to, any property in which either or both of the parties have an undivided separate property interest, describing the facts (e.g., owned before marriage, gift, inheritance) supporting any claim, and the estimated fair market value and any secured debts related to each separate property claim.

- g. Any claims for, and the amount of, reimbursement by, between, or among the parties' community estate, MARINA P. SIFUENTES' separate estate, and/or LENDOL L. DAVIS' separate estate.

Ordering LENDOL L. DAVIS to execute all necessary releases, by a date certain, required by MARINA P. SIFUENTES to obtain any discovery allowed by the Texas Rules of Civil Procedure.

Ordering a pretrial conference to simplify the issues in this case, determine the stipulations of the parties, and set discovery deadlines and for such other matters as the Court may deem appropriate.

Travis County Standing Order

A true and correct copy of the "Travis County Standing Order Regarding Children, Property and Conduct of the Parties" is attached to this pleading as Exhibit "A" and made a part of it for all purposes, as required by the Travis County District Clerk's File No. 121,012 (Local Rules and General Orders). MARINA P. SIFUENTES has not requested specifically that this Order be imposed, but attaches it in compliance with the Travis County Local Rules and General Orders.

MARINA P. SIFUENTES requests that LENDOL L. DAVIS be authorized only as specifically provided in the *Travis County District Court Standing Order Regarding Children, Property and Conduct of the Parties* dated December 17, 2004.

Attorneys' Fees and Expenses

It has been necessary for the preservation of MARINA P. SIFUENTES' rights and property to employ the Law Office of Becky Beaver, licensed attorneys, to represent MARINA P. SIFUENTES in this matter. MARINA P. SIFUENTES has agreed to pay her attorneys a reasonable fee for services rendered in connection with this matter. If MARINA P. SIFUENTES and LENDOL L. DAVIS are unable to reach an agreement on all issues in this matter, judgment should be rendered against LENDOL L. DAVIS, and in favor of MARINA P. SIFUENTES, for

the use and benefit of her attorneys, the Law Office of Becky Beaver, in an amount to be determined as a reasonable attorney's fee at the conclusion of the trial of this matter and, in the event of an appeal, for a reasonable attorney's fee for services rendered in connection with the appeal, all to be applied toward MARINA P. SIFUENTES' attorney's total compensation, and all such judgments should bear pre- and post-judgment interest at the highest rate allowable by law. Said attorney's fees judgment should be secured by LENDOL L. DAVIS' share of the community estate.

Prayer

MARINA P. SIFUENTES prays that the Court, upon notice and hearing, make temporary orders as deemed necessary and equitable, in conformity with the allegations set forth in this Petition.

MARINA P. SIFUENTES prays that the Court grant her a divorce and all other relief requested herein.

MARINA P. SIFUENTES prays for attorney's fees, expenses, and costs, as requested above.

MARINA P. SIFUENTES prays for general relief.

Respectfully submitted,

LAW OFFICE OF BECKY BEAVER
816 Congress Avenue, Suite 1600
Austin, Texas 78701
(512) 474-5791 Telephone
(512) 474-4169 Facsimile



By: _____

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ATTORNEYS FOR MARINA P. SIFUENTES

**TRAVIS COUNTY DISTRICT CLERK'S
FILE NO. 121,012
(LOCAL RULES AND GENERAL ORDERS)**

TRAVIS COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND
CONDUCT OF THE PARTIES

No party to this lawsuit has requested this order. Rather, this order is a standing order of the Travis County District Courts that applies in every divorce suit and every suit affecting the parent-child relationship filed in Travis County. The District Courts of Travis County have adopted this order because the parties and their children should be protected and their property preserved while the lawsuit is pending before the court. Therefore, it is ORDERED:

1. **NO DISRUPTION OF CHILDREN.** Both parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this case:

- 1.1 Removing the children from the State of Texas, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.
- 1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court.
- 1.3 Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.
- 1.4 Disturbing the peace of the children.

2. **CONDUCT OF THE PARTIES DURING THE CASE.** Both parties are ORDERED to refrain from doing the following acts:

- 2.1 Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner, to communicate with the other party, whether in person, by telephone, or in writing.
- 2.2 Threatening the other party in person, by telephone, or in writing to take unlawful action against any person.
- 2.3 Placing one or more telephone calls, at an unreasonable hour, in an offensive or repetitious manner, without a legitimate purpose of communication, or anonymously.
- 2.4 Opening or diverting mail addressed to the other party.

3. **PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:

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

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Christina Rodriguez
DISTRICT CLERK
TRAVIS COUNTY TEXAS

EXHIBIT A

- 3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.
 - 3.3 Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.
 - 3.4 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 the other party.
 - 3.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real estate property, and whether separate or community, except as specifically authorized by this order.
 - 3.6 Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by this order.
 - 3.7 Making withdrawals from any checking or savings account in any financial institution for any purpose, except as specifically authorized by this order.
 - 3.8 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.
 - 3.9 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 this order.
 - 3.10 Signing or endorsing the other party'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 the other party without the personal signature of the other party.
 - 3.11 Taking any action to terminate or limit credit or charge cards in the name of the other party.
 - 3.12 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.
 - 3.13 Discontinuing or reducing the withholding for federal income taxes on wages or salary while this suit is pending.
 - 3.14 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 the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.
4. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
- 4.1 Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations.
 - 4.2 Falsifying any writing or record relating to the property of either party.
 - 4.3 "Records" include e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.

EXHIBIT A

5. **INSURANCE IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:

- 5.1 Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order.
- 5.2 Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.
- 5.3 Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property of persons including the parties' minor children.

6. **SPECIFIC AUTHORIZATIONS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:

- 6.1 To engage in acts reasonable and necessary to the conduct of that party's usual business and occupation.
- 6.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.
- 6.3 To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation and medical care.
- 6.4 To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.

7. **SERVICE AND APPLICATION OF THIS ORDER.**

- 7.1 The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time the petition is filed, if the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented.
- 7.2 This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of the court. This entire order will terminate and will no longer be effective once the court signs a final order.

8. **EFFECT OF OTHER COURT ORDERS.** If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.

9. **PARTIES ENCOURAGED TO MEDIATE.** The parties are encouraged to settle their disputes amicably without court intervention. The parties are encouraged to use alternative

dispute resolution methods, such as mediation, to resolve the conflicts that may arise in this lawsuit.

THIS TRAVIS COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES SHALL BECOME EFFECTIVE ON JANUARY 1, 2005.


JUDGE SCOTT L. JENKINS
48th District Court


JUDGE DARLENE BYRNE
126th District Court


JUDGE MIKE LYNETT
167th District Court


JUDGE SUZANNE COVINGTON
201st District Court


JUDGE LORA F. LIVINGSTON
261st District Court


JUDGE BOB PERKINS
331st District Court


JUDGE MARGARET A. COOPER
353rd District Court


JUDGE BRENDA KENNEDY
403rd District Court


JUDGE W. JEANNE MEURER
98th District Court


JUDGE WILFORD FLOWERS
143rd District Court


JUDGE PAUL DAVIS
200th District Court


JUDGE JOHN K. DIETZ
250th District Court


JUDGE JAN WISSLER
299th District Court


JUDGE PATRICK KEEL
345th District Court


JUDGE JULIE KOCUREK
390th District Court

EXHIBIT A

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____ COURT (FOR CLERK USE ONLY): _____

STYLED IN THE MATTER OF THE MARRIAGE OF MPS AND LLD

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:		
Name: <u>BECKY BEAVER</u> Address: <u>816 CONGRESS, #1600</u> City/State/Zip: <u>AUSTIN, TEXAS 78701</u> Signature:		Email: <u>bbeaver@beckybeaverlaw.com</u> Telephone: <u>(512) 474-5791</u> Fax: <u>(512) 474-4169</u> State Bar No: <u>01998800</u>		Plaintiff(s)/Petitioner(s): <u>MPS</u> Defendant(s)/Respondent(s): <u>LLD</u> [Attach additional page as necessary to list all parties]		<input type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____						
2. Indicate case type, or identify the most important issue in the case (select only 1):						
<i>Civil</i>			<i>Family Law</i>			
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)		
<input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input checked="" type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order		
Employment	Other Civil		Other Family Law	Parent-Child Relationship		
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property		<input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Paternity/Parentage <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____		
Tax	Probate & Mental Health					
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<i>Probate/Wills/Intestate Administration</i> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____					
3. Indicate procedure or remedy, if applicable (may select more than 1):						
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover		