



## *Jan B. Bromell Holmes' Response to Complaints*

November 1, 2023

Judicial Merit Selection Commission  
Mrs. Erin B. Crawford, Esq.  
P.O. Box 142  
Columbia, SC 29202

Re: Jan B. Bromell Holmes' Response to Complaints  
Court of Appeals Judge, Seat 9

Dear Mrs. Crawford:

I hope all is well. I respond to the complaints filed against my candidacy as follows:

### **1. Karon Mitchell**

The affidavit does not contain any specific dates and/or times nor case(s) in which she observed the behavior described in accordance with the JMSC affidavit procedure. However, I do believe that she may have been present at John H. Gallman's hearing on September 23, 2019. I recall that there were several people present with him. I deny that I have exhibited the alleged behavior and believe that the record will reflect that I acted appropriately.

### **2. Iris B. Bullard**

I believe she is John H. Gallman's mother and was present at his hearing on September 23, 2019 as well. I deny that I exhibited any inappropriate behavior. I was professional, my judicial temperament was appropriate and the record will reflect same. My ruling was based solely on the affidavits, supporting documents and evidence submitted by the parties.

### **3. John H. Gallman**

John H. Gallman is an unhappy litigant. The hearing held on September 23, 2019 resulted in suspension of his visitation and contact with his children until he submitted to a psychological and custodial evaluation based upon my review of records that reflected his alleged report of sexual abuse of his minor children by his ex-wife and children's step-father were false.

*BBH*

**Professional and Academic Ability:** I did not violate multiple state and federal statutes in his hearing. S.C Code § 40-75-90 (2022) D is applicable to Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists. I attach the statute for your reference as **Judge Exhibit 1**.

**Confidential Health Records:** Any health records reviewed and referenced by me were submitted as evidence. With respect to me allowing the confidential health records of a minor to be made public, the Clerk of Court maintains court files.

**Judicial Temperament:** The record will reflect that I exhibited proper judicial temperament at all times during the hearing.

**Character and Reputation:** All reports prepared by the Pee Dee Citizens' Committee reflect that I am well respected. I have no recollection of multiple officers of the court noting any issues with my character, reputation or judicial temperament in the 2018 JMISC transcripts. I was last screened by JMISC in 2022.

#### 4. Tucker S. Player

Mr. Player has never appeared in my courtroom. It appears that the information provided in his affidavit reflects what John H. Gallman has informed him. I stand by my order issued on September 23, 2019 as being the appropriate ruling based on the evidence, facts and circumstances presented to the Court at the time.

- A. I held a Status Conference by WebEx on June 3, 2020. The results of the psychological evaluation were still not provided to the court. I attach the **Status Conference Order** for your reference as **Judge Exhibit 2**.
- B. Judge Arthur E. Morehead presided at a subsequent hearing on August 28, 2020 of which the results of the psychological evaluation were presented to him. Judge Morehead issued a "Temporary Order" which directed Mr. Gallman to comply with the recommendations of the psychological evaluation prior to resumption of his visitation. I submit the order as **Judge Exhibit 3**.
- C. Judge Timothy Pogue presided over the trial in the matter. It was scheduled for November 2-6, 2020. I attach the 33 pages order for your reference as **Judge Exhibit 4**.

I deny that my suspension of Mr. Gallman's contact with his children was the reason that he and his children required therapy. I call your attention to Paragraphs 31, 36, 40 and 44 of the order which sets forth the reasons for counseling/therapy.

I deny all allegations as stated in the complaint regarding my ethical fitness, professional and academic ability, character, reputation and judicial temperament. I specifically deny that I issued any ruling to punish Mr. Gallman. I have, at all times, been patient, considerate, deliberate and fair in all of Mr. Gallman's appearances before me. I have also strictly complied with the Code of Judicial Conduct at all times.

#### **5. Shanda Nicol**

Mrs. Nicol is an unhappy litigant. She has not presented truthful statements to the Commission. As this is a pending case, I must comply with the Code of Judicial Conduct Canon 3 (B) (9), which requires:

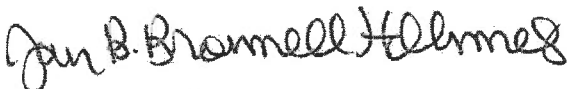
"a judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing.... This Section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity."

I enclose my order of September 15, 2021 as **Judge Exhibit 5**.

I deny all allegations as stated in her complaint of my ethical fitness, professional and academic ability, character, reputation and judicial temperament. I have specifically complied with the Code of Judicial Conduct at all times.

Thank you for the time and consideration given to my response and supporting documents. If I am allowed to have witnesses present to testify to my appropriate judicial temperament, professionalism, academic ability, character, and reputation, please inform me of same.

Sincerely,



Jan B. Bromell Holmes

:JBBH

# South Carolina Legislature

*Judge Exhibit*

South Carolina Law > Code of Laws > Title 40

## South Carolina Code of Laws Unannotated

### Title 40 - Professions and Occupations

#### CHAPTER 75

#### Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists

#### ARTICLE 1

#### Professional Counselors and Marriage and Family Therapists

#### SECTION 40-75-5. Application of Title 40, Chapter 1, Article 1.

Unless otherwise provided for in this chapter, Article 1, Chapter 1, Title 40 applies to licensed professional counselors, marriage and family therapists, addiction counselors, and psycho-educational specialists regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 2, eff May 18, 2018.

#### Effect of Amendment

2018 Act No. 249, Section 2, in the first sentence, inserted "addiction counselors," following "marriage and family therapists," and made nonsubstantive changes.

#### SECTION 40-75-10. Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists; membership.

(A) There is created the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists composed of eleven members appointed by the Governor. Of the eleven members, nine must be professional members, with representation from each congressional district in the State. Of the professional members, three must be licensed professional counselors, two must be licensed addiction counselors, three must be marriage and family therapists, and one must be a psycho-educational specialist. The remaining two members must be at large from the general public and must not be associated with, or financially interested in, the practice of professional counseling, marriage and family therapy, addiction counseling, or psycho-educational services.

(B) The membership must be representative of race, ethnicity, and gender. The eight professional members must have been actively engaged in the practice of their respective professions or in the education and training of professional counselors, marriage and family therapists, addiction counselors, or psycho-educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor, marriage and family therapist, addiction counselor, or psycho-educational specialist. Members are eligible for reappointment. Vacancies must be filled in the same manner as the original appointment for the unexpired portion of the term. Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations.

HISTORY: 1998 Act No. 396, Section 8; 2012 Act No. 222, Section 10, eff June 7, 2012; 2018 Act No. 249 (H.4601), Section 3, eff May 18, 2018.

#### Editor's Note

Prior Laws: 1985 Act No. 191, Section 1; 1976 Code Section 40-75-20.

2012 Act No. 222, Section 15, provides as follows:

"SECTION 15. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires."

#### Effect of Amendment

The 2012 amendment substituted "seven" for "six" throughout; made nonsubstantive changes to subsection (A); and, removed "and the licensed psycho-education specialist" from subsection (B).

2018 Act No. 249, Section 3, in (A), in the first sentence, inserted "Addiction Counselors," following "Marriage and Family Therapists," and substituted "eleven members" for "nine members", in the second sentence, substituted "eleven members, nine must be professional members, with representation" for "nine members, seven must be professional members, one", in the third sentence, substituted "two must be licensed addiction counselors" for "one of whom must be a certified addictions counselor", and in the fourth sentence, inserted "addiction counseling," following "marriage and family therapy,"; and in (B), in the second sentence, substituted "eight professional members" for "seven professional members" and inserted "addiction counselors," following "marriage and family therapists", and in the third sentence, substituted "marriage and family therapist, addiction counselor, or psycho-educational specialist" for "and a marriage and family therapist".

#### SECTION 40-75-20. Definitions.

As used in this article:

- (1) "Addiction counselor" means a professional who practices individual, family, and group addiction counseling.
- (2) "Alcohol and drug counseling services" means those services offered for a fee as part of the treatment and rehabilitation of persons with a substance abuse disorder, at risk of developing a substance abuse disorder, or is negatively affected by someone with a substance abuse disorder. The purpose of alcohol and drug counseling services is to help individuals, families, and groups to address and resolve problems caused by substance abuse.
- (3) "Approved supervisor" means a licensee who has met the requirements for approval as a professional counselor supervisor, marriage and family therapy supervisor, or addiction counselor supervisor as provided in regulation.
- (4) "Assessment" in the practice of counseling and therapy means selecting, administering, scoring, and interpreting evaluative or standardized instruments; assessing, diagnosing, and treating, using standard diagnostic nomenclature, a client's attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental,

emotional, and behavioral problems that are typical of the developmental life cycle; and the use of methods and techniques for understanding human behavior in relation to, coping with, adapting to, or changing life situations. A counselor may assess more serious problems as categorized in standard diagnostic nomenclature but only if the counselor has been specifically trained to assess and treat that particular problem. If a client presents with a problem which is beyond the counselor's training and competence, the counselor must refer that problem to a licensed professional who has been specifically trained to diagnose and treat the presenting problem. In all cases, ethical guidelines as established by the board must be followed.

(5) "Associate" means an individual who has met the requirements for licensure as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate under the provisions of this article and has been issued a license by the board.

(6) "Board" means the South Carolina Board of Licensed Professional Counselors, Marriage and Family Therapists, Addictions Counselors, and Psycho-Educational Specialists.

(7) "Client" means a person or patient, whether an individual or a member of a group, a group, an agency or an organization, who receives in an office setting any treatment or service that falls within the scope of practice of a Licensed Professional Counselor, Marriage and Family Therapist, Addiction Counselor, or Psycho-Educational Specialist.

(8) "Consulting" means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, individuals, groups, and organizations.

(9) "Director" means the Director of the Department of Labor, Licensing and Regulation.

(10) "Federally assisted program" means a program directly funded by the federal government, operated by the federal government, certified for Medicaid reimbursement, receiving federal block grant funds through a state or local government, licensed by the federal government, or exempt from paying taxes under a provision of the federal Internal Revenue Code.

(11) "License" means an authorization to practice counseling, marriage and family therapy, issued by the board pursuant to this article and includes an authorization to practice as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate.

(12) "Licensee" means an individual who has met the requirements for licensure under this article and has been issued a license to practice as a professional counselor or professional counselor associate, marriage and family therapist or marriage and family therapy associate, or addiction counselor associate.

(13) "Licensed professional counselor" means an individual who practices professional counseling.

(14) "Marriage and family therapy" means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the application of psycho-therapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating diagnosed emotional, mental, behavioral, or addictive disorders.

(15) "Person" means an individual, organization, or corporation, except that only individuals can be licensed under this article.

(16) "Practice of marriage and family therapy" means the rendering of marriage and family therapy services to individuals, couples, and families, singly or in groups, whether these services are offered directly to the general public or through organizations, either public or private.

(17) "Practice of professional counseling" means functioning as a psycho-therapist and may include, but is not limited to, providing individual therapy, family counseling, group therapy, marital counseling, play therapy, couples counseling, substance abuse counseling, vocational counseling, school counseling, rehabilitation counseling, intervention, human growth and development counseling, behavioral modification counseling, and hypnotherapy. The practice of professional counseling may include assessment, crisis intervention, guidance and counseling to facilitate normal growth and development, including educational and career development; utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition; and consultation and research. The use of specific methods, techniques, or modalities within the practice of licensed professional counseling is restricted to professional counselors appropriately trained in the use of these methods, techniques, or modalities.

(18) "Practice of addiction counseling" means providing professional services that are delivered by a licensed addiction professional, designed to change substance use or addictive behavior, and involve specialized knowledge and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:

- (a) gathering information through structured interview screens using routine protocols;
- (b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;
- (c) referring for further assessment, diagnosis, evaluation and mental health therapy;
- (d) providing client and family education related to addictions;
- (e) providing information on social networks and community systems for referrals and discharge planning;
- (f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;
- (g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings; and
- (h) maintaining the highest level of professionalism and ethical responsibility.

(19) "Referral" means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of this determination, and communicating as requested or considered appropriate with these referral sources.

(20) "Supervision" means the supervision of clinical services in accordance with standards established by the board under the supervision of an approved supervisor.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 4, eff May 18, 2018.

#### Editor's Note

Prior Laws: 1985 Act No. 191, Section 1; 1976 Code Sections 40-75-80, 40-75-90.

#### Effect of Amendment

2018 Act No. 249, Section 4, rewrote the section.

#### SECTION 40-75-30. Licensure requirement.

(A) It is unlawful for a person to practice as a professional counselor, a marriage and family therapist, or an addiction counselor in this State without being licensed in accordance with this article. A professional counselor associate may practice only under the direct supervision of a licensed professional counselor supervisor. A marriage and family therapy associate may practice only under the direct supervision of a licensed marriage and family therapist supervisor, as approved by the board. An addiction counselor associate only may work under a licensed addiction counselor supervisor or other approved board-licensed clinician as provided in regulation.

(B) A person is guilty of practicing without a license if the person represents himself or herself to be a marriage and family therapist by the use of any title or description of services which incorporates the words "licensed marital and family therapist", "licensed marriage and family therapist", "marital and family therapist", "marriage and family therapist", or "marriage and family counselor" to describe a function or service performed without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(C) A person is guilty of practicing without a license if the person represents himself or herself to be a professional counselor by the use of any title or description of services which incorporates the words "licensed professional counselor", "professional counselor", or "licensed counselor" without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(D) A person is guilty of practicing without a license if the person represents himself to be an addiction counselor by the use of any title or description of services which incorporates the words "licensed addiction counselor" or "addiction counselor" without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(E) A licensed professional counselor, a licensed marital and family therapist, or a licensed addiction counselor may not use the title of "psycho-therapist".

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 5, eff May 18, 2018.

#### Effect of Amendment

2018 Act No. 249, Section 5, in (A), in the first sentence, substituted ", or an addiction counselor" for "as defined within this article", in the second and third sentences, substituted "associate" for "intern", and added the fourth sentence; rewrote (D); in (E), inserted ", or a licensed addiction counselor"; and made nonsubstantive changes.

#### **SECTION 40-75-40. Nomination and appointment of board members; vacancies; replacements.**

Board members from the general public may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40-1-45. In case of a vacancy on the board, the chair, with the consent of a majority of the sitting board members, may appoint a temporary replacement for the vacated seat. The replacement shall serve until the Governor appoints a replacement for the vacated seat and the appointee qualifies. In all cases, the replacement appointed must fill the same professional or consumer capacity as the predecessor in office held.

HISTORY: 1998 Act No. 396, Section 8.

#### **SECTION 40-75-50. Election of officers.**

In addition to the powers and duties enumerated in Section 40-1-50, the board shall, at the first board meeting in each calendar year elect from the professional membership a president, a vice president, and any other officer it considers necessary. Regular meetings must be held upon the call of the president or any two members of the board. A majority of the members of the board constitutes a quorum.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 6, eff May 18, 2018.

#### Effect of Amendment

2018 Act No. 249, Section 6, rewrote the section, removing duties concerning the establishment and function of standards committees.

#### **SECTION 40-75-60. Adoption of rules and regulations.**

The board may adopt rules governing its proceedings and internal operations, and may promulgate regulations necessary to carry out the provisions of this chapter.

HISTORY: 1998 Act No. 396, Section 8.

#### **SECTION 40-75-70. Additional powers and duties.**

In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Section 40-1-70.

HISTORY: 1998 Act No. 396, Section 8.

#### **SECTION 40-75-80. Investigations; subpoena of witnesses, taking of evidence, and requiring production of documents.**

For the purpose of conducting an investigation or proceeding under this chapter, the board or a person designated by the board may subpoena witnesses, take evidence, and require the production of any documents or records which the board considers relevant to the inquiry.

HISTORY: 1998 Act No. 396, Section 8.

#### **SECTION 40-75-90. Complaints against licensees; investigation and proceedings.**

(A) The board may receive complaints by any person against a licensee and may require the complaints to be submitted in writing specifying the exact charge or charges and to be signed by the complainant. Upon receipt of a complaint, the board administrator shall refer the complaint to a designated investigator of the South Carolina Department of Labor, Licensing and Regulation, who shall investigate the allegations in the complaint and make a report to the board concerning the investigation. If the board desires to proceed further, it may file a formal accusation charging the licensee with a violation of this chapter or a regulation promulgated pursuant to this chapter. The accusation must be signed by the president or vice president on behalf of the board. When the accusation is filed and the board has set a date and a place for a hearing on the accusation, the administrator shall notify the accused in writing not less than thirty days prior to the hearing and a copy of the accusation must be attached to the notice. The notice must be served personally or sent to the accused by registered mail, return receipt requested, directed to the last mailing address furnished to the board. The post office registration receipt signed by the accused, his agent, or a responsible member of his household or office staff, or, if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused, is prima facie evidence of service of the notice.

(B) The accused has the right to be present and present evidence and argument on all issues involved, to present and to cross-examine witnesses, and to be represented by counsel, at the accused's expense. For the purpose of these hearings, the board may require by subpoena the attendance of witnesses and the production of documents and other evidence and may administer oaths and hear testimony, either oral or documentary, for and against the accused. All investigations, inquiries, and proceedings undertaken under this chapter must be confidential, except as hereinafter provided.

(C) Every communication, whether oral or written, made by or on behalf of any complainant to the board or its agents or any member of the board, pursuant to this chapter, whether by way of complaint or testimony, is privileged and no action or proceeding, civil or criminal, may lie against any person by whom or on whose behalf the communication is made, except upon proof that the communication was made with malice.

(D) No person connected with any complaint, investigation, or other proceeding before the board, including, but not limited to, any witness, counsel, counsel's secretary, board member, board employee, court reporter, or investigator may mention the existence of the complaint, investigation, or other proceeding or disclose any information pertaining to the complaint, investigation, or proceeding, except to persons involved and having a direct interest in the complaint, investigation, or other proceeding and

then only to the extent necessary for the proper disposition of the complaint, investigation, or other proceeding. However, if the board receives information in any complaint, investigation, or other proceeding before it indicating a violation of a state or federal law, the board may provide that information, to the extent the board considers necessary, to the appropriate state or federal law enforcement agency or regulatory body. Nothing contained in this section may be construed so as to prevent the board from making public a copy of its final order in any proceeding, as authorized or required by law.

HISTORY: 1998 Act No. 396, Section 8.

Editor's Note

Prior Laws: 1985 Act No. 191, Section 1; 1976 Code Section 40-75-160.

**SECTION 40-75-100.** Issuance of cease and desist orders or temporary restraining orders; injunction restraining conduct.

(A) In addition to other remedies provided for in this chapter or Chapter 1 of Title 40, the board in accordance with Section 40-1-100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter or a regulation promulgated under this chapter.

(B) If the board has reason to believe that a person is violating or intends to violate a provision of this chapter or a regulation promulgated under this chapter, it may, in addition to all other remedies, order the person to desist immediately and refrain from the conduct. The board may apply to an administrative law judge for an injunction restraining the person from the conduct. The judge may issue a temporary injunction ex parte not to exceed ten days and, upon notice and full hearing, may issue any other order in the matter it considers proper. No bond may be required of the board by the judge as a condition to the issuance of an injunction or order contemplated by the provisions of this section.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-110.** Revocation, suspension, reprimand, or restriction of licensee; grounds for discipline.

(A) The board may revoke, suspend, publicly or privately reprimand, or restrict a licensee or otherwise discipline a licensee when it is established to the satisfaction of the board that a licensee has:

- (1) uttered a false or fraudulent statement or forged a statement or document or committed or practiced a fraudulent, deceitful, or dishonest act in connection with license requirements;
- (2) been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere is the equivalent of a conviction;
- (3) violated a regulation, directive, or order of the board;
- (4) knowingly performed an act which substantially assists a person to practice counseling, marriage and family therapy, or addiction counseling illegally;
- (5) caused to be published or circulated directly or indirectly fraudulent, false, or misleading statements as to the skills or methods or practice of a license holder when malice is shown;
- (6) failed to provide and maintain reasonable sanitary facilities;
- (7) sustained physical or mental impairment or disability which renders practice dangerous to the public;
- (8) violated the code of ethics adopted by the board in regulations;
- (9) obtained fees or assisted in obtaining fees under deceptive, false, or fraudulent circumstances;
- (10) used an intentionally false or fraudulent statement in a document connected with the practice of professional counseling, marriage and family therapy, or addiction counseling;
- (11) been found by the board to lack the professional competence to practice;
- (12) practiced during the time his license has lapsed or been suspended or revoked;
- (13) practiced the profession or occupation while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice his profession or occupation.

(B) In addition to other remedies and actions incorporated in this chapter, the license of a licensee adjudged mentally incompetent by a court of competent jurisdiction must be suspended automatically by the board until the licensee is adjudged competent by a court of competent jurisdiction.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 7, eff May 18, 2018.

Editor's Note

Prior Laws: 1985 Act No. 191, Section 1; 1991 Act No. 107, Section 3; 1976 Code Section 40-75-170.

Effect of Amendment

2018 Act No. 249, Section 7, in (A), in (4), substituted ", marriage and family therapy, or addiction counseling" for "or marriage and family therapy", and in (10), substituted ", marriage and family therapy, or addiction counseling" for "or marriage and family therapy".

**SECTION 40-75-120.** Sanctions.

Upon a determination by the board that one or more of the grounds for discipline of a licensee exists, as provided for in Section 40-75-110 or 40-1-110, the board may impose sanctions as provided in Section 40-1-120, including imposing a fine of not more than one thousand dollars for each violation.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-130.** Denial of licensure.

As provided for in Section 40-1-130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-140.** Denial of license based on person's prior criminal record not permitted.

A license may not be denied based solely on a person's prior criminal record as provided for in Section 40-1-140.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-150.** Voluntary surrender of license.

A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40-1-150.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-160.** Appeal.

A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-170.** Payment of investigation and prosecution costs.

A person found in violation of this chapter or a regulation promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40-1-170.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-180.** Collection and enforcement of imposed costs and fines.

All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-190.** Confidentiality of client communications; exceptions.

(A) No person licensed under this chapter, and no person's employees or associates, shall disclose any information which he or she may have acquired during the course of treatment, except as required or permitted by applicable state law, federal law, or both, including, but not limited to, compliance with Sections 19-11-95, 43-35-25, 44-29-70, and 63-7-310.

(B) All communications between clients and their licensed professional counselor, marriage and family therapist, or addiction counselor are considered privileged as provided in Section 19-11-95, protecting confidences between patients of mental illness or emotional condition and licensees under this chapter, and as provided in Section 19-11-100, providing limited protection for persons engaged in the gathering of information for journalistic or literary purposes. Additionally, a licensed professional counselor, a licensed marital and family therapist, or addiction counselor must maintain privileged communications and patient confidentiality as required of psychotherapists. All records of treatments maintained by a licensed professional counselor, marriage and family therapist, or an addiction counselor are confidential and must not be disclosed except under the circumstances provided for in this subsection.

(C) A person licensed under this chapter must comply with all applicable state and federal confidentiality laws related to alcohol or drug treatment records.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 8, eff May 18, 2018.

Effect of Amendment

2018 Act No. 249, Section 8, rewrote the section, providing for the inclusion of addiction counselors and revising exceptions.

**SECTION 40-75-200.** Violations of chapter; penalty.

(A) A person who practices or offers to practice as a counselor or therapist in this State in violation of this chapter or a regulation promulgated under this chapter or who knowingly submits false information to the board for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(B) A person violating any other provision of this chapter or a regulation promulgated under this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-210.** Civil penalties; injunctive relief.

In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief in accordance with Section 40-1-210.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-220.** Licensure as professional counselor, marriage and family therapist, or addiction counselor; requirements.

To be licensed by the board as a professional counselor, marriage and family therapist, or addiction counselor, an individual must:

(1) pay the appropriate fees and pass an examination approved by the board;

(2) complete forms prescribed by the board; and

(3) complete the following educational requirements:

(a) for licensed professional counselor or marriage and family therapist, successfully complete a minimum of a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar educational standards and by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a post-degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree; or

(b) for licensed addiction counselor, successfully complete a minimum of a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar standards and the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, the National Addiction Studies Accreditation Commission, other board-approved educational institution, or a regionally accredited institution of higher learning.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 9, eff May 18, 2018.

Effect of Amendment



2018 Act No. 249, Section 9, rewrote the section, revising the requirements for licensure and providing additional requirements for addiction counselor licensure.

**SECTION 40-75-225.** Licensure as addiction counselor; requirements.

(A) An applicant for licensure as an addiction counselor before October 1, 2018 must:

(1)(a) complete a human services field program of study and field experiences from an accredited educational institution, culminating in a master's degree, and hold a current certification as a Certified Addiction Counselor II (CACII) or Certified Clinical Supervisor (CCS) through the South Carolina Association of Alcohol and Drug Abuse Counselors, a current certification as a Masters Addiction Counselor (MAC) or National Certified Addiction Counselor II (NCACII) through the National Association of Alcohol and Drug Abuse Counselors, or a current certification as an Alcohol and Drug Counselor (ADC) or Advanced Alcohol and Drug Counselor (AADC) from the International Certification and Reciprocity Consortium; and

(b) demonstrate at least two years full-time or four thousand hours of experience within the last five years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment;

(2)(a) be currently licensed in this State as a Professional Counselor, Professional Counselor Supervisor, or Marriage and Family Therapist; and

(b) demonstrate at least two years full-time or four thousand hours of experience within the last five years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment; or

(3)(a) complete a human services field program of study and field experiences from an accredited educational institution, culminating in a bachelor's degree, hold a current certification as a Certified Addiction Counselor II (CACII) through the South Carolina Association of Alcohol and Drug Abuse Counselors, a current certification as a National Certified Addiction Counselor II (NCACII) through the National Association of Alcohol and Drug Abuse Counselors, or a current Certification as an Advanced Alcohol and Drug Counselor (AADC) from the international Certification and Reciprocity Consortium; and

(b) demonstrate at least five years full-time or ten thousand hours of experience within the last eight years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment.

(B) An applicant for licensure as an addiction counselor after October 1, 2018, must meet the standards provided in Section 40-75-220.

HISTORY: 2018 Act No. 249 (H.4601), Section 1, eff May 18, 2018.

**SECTION 40-75-230.** Licensure as professional counselor supervisor, marriage and family therapist supervisor, or addiction counselor; requirements.

To be licensed as a professional counselor supervisor, marriage and family therapist supervisor, or addiction counselor, an individual must:

(1) be licensed in South Carolina in the discipline for which the supervisor license is sought;

(2) have been in the practice of counseling, marriage and family therapy, or addiction counseling for at least five years; and

(3) have met the additional requirements prescribed by the board in regulation.

HISTORY: 1998 Act No. 396 Section 8, 2018 Act No. 249 (H.4601), Section 10, eff May 18, 2018.

**Effect of Amendment**

2018 Act No. 249, Section 10, in the first undesignated paragraph, inserted "professional" following "To be licensed as a", substituted ", marriage and family therapist supervisor" for "or marriage and family therapist supervisor", and inserted "or addiction counselor,;" and in (2), substituted ", marriage and family therapy, or addiction counseling" for "or marriage and family therapy", and added "and" at the end.

**SECTION 40-75-240.** Associate licenses.

A professional counselor associate license, marriage and family therapy associate license, or addiction counselor associate license must be issued to an applicant who has satisfied the educational requirements, as specified by the board in regulation, for licensure but who has not yet completed the supervision or experience requirements and has passed the examination required for licensure. An associate who has not completed the requirements for licensure within two years may apply to the board for an extension.

HISTORY: 1998 Act No. 396 Section 8; 2018 Act No. 249 (H.4601), Section 11, eff May 18, 2018.

**Effect of Amendment**

2018 Act No. 249, Section 11, in the first sentence, substituted "associate license, marriage and family therapy associate license, or addiction counselor associate license" for "intern or marriage and family therapy intern license", and in the second sentence, substituted "associate" for "intern".

**SECTION 40-75-250.** Issuance of license; display; renewal.

(A) If an applicant satisfies all licensure requirements as provided for in this article, the board may issue a license to the applicant. A license is a personal right and not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensed professional counselor, marriage and family therapist, an addiction counselor, or of an associate, while the license remains current and unrestricted. However, the license is the property of the State and upon suspension or revocation immediately must be returned to the board.

(B) A person licensed under this chapter must display the license in a prominent and conspicuous place in the primary place of practice.

(C) Licenses issued under this chapter must be renewed every two years upon the payment of a renewal fee and upon the fulfillment of continuing education as determined by the board in regulation.

(D) A licensee who allows the license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon payment of a reinstatement fee and the current renewal fee. The board, by regulation, may impose additional requirements for reinstatement.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 12, eff May 18, 2018.

**Editor's Note**

Prior Laws: 1985 Act No. 191, Section 1; 1988 Act No. 318, Section 2; 1976 Code Sections 40-75-110, 40-75-140.

**Effect of Amendment**

2018 Act No. 249, Section 12, in (A), in the third sentence, substituted ", marriage and family therapist, an addiction counselor, or of an associate" for "or a marriage and family therapist, or of an intern" following "of a licensed professional counselor".

**SECTION 40-75-260.** State reciprocity agreements; licensure of applicants licensed in other jurisdictions or educated in foreign countries.

(A) The board may enter into a reciprocal agreement with a state that credentials professional counselors, marriage and family therapists, or addiction counselors if the board finds that the state has substantially the same or higher licensure requirements.

(B)(1) The board may license an individual who is currently credentialed or meets the requirements of a licensed professional counselor, licensed marriage and family therapist, or addiction counselor in another jurisdiction of the United States if the individual has met the standards defined in regulation.

(2) The board shall delineate in regulation procedures for verifying an applicant's credentials from another jurisdiction.

(3) The board may not license an applicant who is under investigation in this or another jurisdiction for an act that would constitute a violation of this chapter until the investigation is complete. When deciding a case, the board shall determine what, if any, rules or discipline apply.

(C) The board may grant a license to practice professional counseling, marriage and family therapy, or addiction counseling to an applicant who has completed an educational program in a college or university in a foreign country if the applicant:

(1) meets all requirements of this article; and

(2) demonstrates to the satisfaction of the board that the applicant's experience, command of the English language, and completed academic program meet the standards of a relevant academic program of an accredited educational institution within the United States. If the requirements of this item are met, the applicant must be considered to have received the education from an accredited educational institution as required by this article.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 13, eff May 18, 2018.

#### Editor's Note

Prior Laws: 1985 Act No. 191, Section 1; 1976 Code Section 40-75-150.

#### Effect of Amendment

2018 Act No. 249, Section 13, in (A), substituted "a state" for "any state" following "reciprocal agreement with", and substituted ", marriage and family therapists, or addiction counselors" for "and marriage and family therapists"; in (B)(1), substituted ", licensed marriage and family therapist, or addiction counselor" for "or a license marriage and family therapist" and "standards defined in regulation" for "same or higher requirements"; and in (C), substituted ", marriage and family therapy, or addiction counseling" for "or marriage and family therapy".

#### SECTION 40-75-270. Statement of professional disclosure.

A licensee shall make available to each client a copy of a statement of professional disclosure. The statement of professional disclosure shall include the licensee's address and telephone number, fee schedule, educational training, and area of specialization. The professional disclosure statement shall also explicitly denote that sexual intimacy between a practitioner and a client is prohibited.

HISTORY: 1998 Act No. 396, Section 8.

#### SECTION 40-75-280. Code of ethics; treatment for impaired practitioners; regulations.

The board may promulgate regulations setting forth a code of ethics for licensees and shall establish regulations pertaining to treatment for impaired practitioners.

HISTORY: 1998 Act No. 396, Section 8.

#### SECTION 40-75-285. Application of article.

This article is for the regulation of the practice of licensed professional counselors, marriage and family therapists, and addiction counselors only and does not prevent human resource professionals, business consultants, and other persons from providing advice and counseling in their organizations or affiliated groups or to their companies and employees of their companies or from engaging in activities performed in the course of their employment.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 14, eff May 18, 2018.

#### Effect of Amendment

2018 Act No. 249, Section 14, substituted ", marriage and family therapists, and addiction counselors" for "and marriage and family therapists" following "licensed professional counselors".

#### SECTION 40-75-290. Persons not affected by article.

This article does not apply to:

(1) salaried employees performing duties for which they were trained and hired solely within a federal, state, county, or local:

(a) governmental agency;

(b) licensed mental health or alcohol or drug abuse facility;

(c) accredited academic institutions;

(d) licensed, formally accredited nonprofit agencies; or

(e) research institutions.

(2) persons pursuing a course of study in a regionally accredited educational or training facility as a formal part of a process to obtain a license associated with this article, if the services constitute a part of a supervised course of study;

(3) nonresidents, appropriately licensed or credentialed in their home state, who offer services within this State, if these services are performed for no more than five days a month, and no more than thirty days in any calendar year;

(4) volunteers accountable to a sponsoring agency;

(5) qualified members of other professionals licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession if they do not represent themselves as being licensed pursuant to this article;

(6) a minister, priest, rabbi, or clergy person of any religious denomination or sect, when the activities are within the scope of performance of his or her regular or specialized ministerial duties, and no fee is received by him or her; or when these activities are performed, with or without compensation, by a person under the auspices or sponsorship of an established church, denomination, or sect and when the person rendering services remains accountable to the established authority and does not hold

himself or herself out to the public as possessing a license issued pursuant to this article; or

(7) members of peer groups or self-help groups when engaging in or offering self-help assistance as part of peer support groups or self-help organizations including, but not limited to, Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), AA or NA sponsorship, or other uncompensated alcohol or other drug abuse or dependent services.

HISTORY: 1998 Act No. 396, Section 8; 2018 Act No. 249 (H.4601), Section 15, eff May 18, 2018.

Effect of Amendment

2018 Act No. 249, Section 15, deleted (8) and (9), which related to certain addiction counselors, and made a nonsubstantive change.

**SECTION 40-75-295.** Third party payors not obligated to provide or pay for services under this chapter.

Nothing in this article may be construed to require a health maintenance organization, a self-funded plan, an accident and health insurer, or any other third party payor to provide services or to pay for services provided for in this chapter.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-300.** Repealed.

HISTORY: Former Section, titled Licensure for alcohol and drug counselors, had the following history: 1998 Act No. 396, Section 8. Repealed by 2018 Act No. 249, Section 17, eff May 18, 2018.

**SECTION 40-75-310.** Severability.

If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application and, to this end, the provisions of this chapter are severable.

HISTORY: 1998 Act No. 396, Section 8.

### ARTICLE 3

#### Psycho-educational Specialists

**SECTION 40-75-510.** Board to administer provisions of article and issue licenses.

The Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists shall administer the provisions of this article and is the sole authority for issuing licenses pursuant to this article.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-520.** Licensed psycho-educational specialist practice; description.

(A) The practice of a licensed psycho-educational specialist is the utilization of a unique blend of training, incorporating skills and knowledge of psychology and education, to provide services addressing the educational, personal, and social needs of children and adolescents through assessment, intervention, consultation, counseling, information and referral, planning, training, and supervision in return for compensation. The practice of a licensed psycho-educational specialist includes:

(1) conducting psycho-educational assessments of individual needs using formal and informal psycho-educational measurement techniques including standardized measures of intelligence, aptitude, achievement, skills, development, personality traits, personal and social adjustment, interests, functional assessment, direct observation, interviews with parents, teachers, and other professionals, family histories, ecological data, criterion referenced measures, and curriculum-based assessment;

(2) interpreting assessment data and design and, when appropriate, providing interventions as indicated by the information;

(3) participating in instructional support and intervention teams;

(4) providing group and individual educational counseling for problems of learning, school adjustment, and academic performance;

(5) evaluating information and determining the need for referral to appropriate specialists and supportive services;

(6) providing consultation to clients, parents, teachers, school administrators, school systems, and professional colleagues;

(7) assisting in designing, planning, and developing instructional programs and curriculum;

(8) supervising the work of other licensed psycho-educational specialists.

(B) Whenever important aspects of a case fall outside the licensed psycho-educational specialist's competence, the specialist must obtain appropriate consultations and referrals. A licensed psycho-educational specialist must not attempt to diagnose, prescribe for, treat, or advise a client with reference to a complaint which is outside the scope of practice as provided for in this article.

(C) A licensed psycho-educational specialist employed by a school district may provide private sector services to students living within that district if the:

(1) parent, guardian, surrogate, or adult client is informed in writing, before services are provided, of the individual's eligibility for free services of the same kind from the school district;

(2) client is not a student assigned to any school to which the licensed psycho-educational specialist is assigned;

(3) parent, guardian, surrogate, or adult client is informed that the licensed psycho-educational specialist may not function as an independent evaluator;

(4) licensed psycho-educational specialist does not provide private sector services during hours of contracted employment with a school district;

(5) licensed psycho-educational specialist does not use his or her position within a school district to offer or promote private sector services;

(6) licensed psycho-educational specialist does not utilize tests, materials, or services belonging to the school district in providing private sector services.

(D) School districts employing licensed psycho-educational specialists on a contractual basis during the school year may require, upon contract renewal, notification of intent to perform psycho-educational services in the private sector.

(E) Persons whose practice is covered in this section shall use the title "Licensed Psycho-educational Specialist" in any advertisement, solicitation, or other written contract with members of the public. The term "South Carolina Department of Education Certified in School Psychology", along with the certificate number, must be used only in conjunction with the title "Licensed Psycho-educational Specialist", and only on letterhead, on business cards, and as a signature line in reports written for South Carolina Department of Education schools or private schools.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-530.** Application procedures; qualifications.

An applicant for licensure shall complete procedures for application as prescribed by the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists. An applicant must furnish the board with satisfactory evidence that the applicant:

(1) holds from a regionally accredited institution of higher education whose program is approved by the National Association of School Psychologists or the American Psychological Association or from a degree program which the board finds to be substantially equivalent based on criteria established by the board in regulation:

- (a) a master's degree plus thirty hours;
- (b) a sixty hour master's degree;
- (c) a specialist's degree, which must require sixty semester hours or ninety quarter hours; or
- (d) a doctorate in school psychology;

(2) is certified by the South Carolina Department of Education as a school psychologist level II or III,

(3) has served successfully for at least two years as a certified school psychologist in a school psychology or comparable setting, at least one year of which must have been under the supervision of a licensed psycho-educational specialist;

(4) has made a satisfactory score, as prescribed by the board, on the Educational Training Service's School Psychology Examination.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-540.** Regulations for continuing education; license renewal.

The board shall promulgate regulations in accordance with Chapter 23, Title 1 (Administrative Procedures Act) establishing requirements for continuing education which must be met by a person licensed as a licensed psycho-educational specialist. An applicant for license renewal shall present evidence satisfactory to the board that continuing education requirements have been met.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-550.** Issuance of license to person furnishing satisfactory evidence to licensure board in another state.

Upon application, accompanied by the required fee, the board may issue a license to a person who has furnished evidence satisfactory to the board of licensure in another state, a territorial possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico, if the requirements for licensure are equivalent to the requirements of this article, pursuant to the determination of the board.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-560.** Use of Licensed Psycho-educational Specialist title.

(A) A person licensed pursuant to this article may use the title "Licensed Psycho-educational Specialist" and the letters "LPES" following his or her name.

(B) It is unlawful for a person who is not licensed in accordance with this article to use the title "Licensed Psycho-educational Specialist".

(C) A licensee shall display his or her license in a prominent place at each place of practice.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-570.** Credential lines to be used for work done for school district or private school.

Notwithstanding the provisions of Chapter 55, Title 40, additional credential lines must be used to indicate legitimate qualifications of the licensee whenever the work being done is for use by a school district or private school. Credential lines shall follow the typed or printed name of the licensee. For South Carolina Department of Education school psychologists, level II, the credential line shall read "Licensed Psycho-educational Specialist, Certified by South Carolina Department of Education in School Psychology, Certification No. \_\_\_\_\_"; For Department of Education school psychologists, level III, the credential line shall read "Licensed School Psychologist, Certified by South Carolina Department of Education in School Psychology, Certification No. \_\_\_\_\_"; however, to use this credential line a level III school psychologist must be licensed by the South Carolina Board of Examiners in Psychology.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-580.** Application of Article 1.

The provisions of Article 1 pertaining to the administrative responsibilities of licensure and regulatory requirements applicable to professional counselors and marriage and family therapists that are not inconsistent with this article also pertain to the licensure and regulation of licensed psycho-educational specialists.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-590.** Code of ethics regulations.

The board shall promulgate regulations necessary to carry out the provisions of this article including a code of ethics for licensed psycho-educational specialists using as resources the code of ethics of the National Association of School Psychologists and other relevant organizations.

HISTORY: 1998 Act No. 396, Section 8.

**SECTION 40-75-600.** Payment of benefits and claims against third parties.

Nothing in this article may be construed to create a right in a psycho-educational specialist to:

- (1) have paid to a licensed psycho-educational specialist a benefit under:
  - (a) a self-funded plan providing benefits to residents of this State;
  - (b) accident and health insurance provided to residents of this State;
  - (c) a plan of operation established by a health maintenance organization licensed in this State; or
- (2) have a claim against a third party payer, however situated.

HISTORY: 1998 Act No. 396, Section 8.

ARTICLE 5

Behavioral Telehealth

**SECTION 40-75-800.** Out-of-state counselors and related therapists authorized.

(A) For purposes of this chapter, "behavioral telehealth" means the practice of professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialty using electronic communications, information technology, or other means between a registrant located outside this State and a client located in this State with or without an intervening practitioner. A behavioral telehealth provider has the duty to practice in a manner consistent with his scope of practice and the prevailing professional standard of practice for a behavioral health care professional who provides in-person professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialist services to clients in this State.

(B) Individuals who hold an active license to provide professional counseling, addiction counseling, marriage and family therapy, and licensed psycho-educational specialist services in another state or jurisdiction may provide these services using behavioral telehealth to a client located in this State if the individual is registered with the board and provides the services within the applicable scope of practice established by this State.

(C) To be registered, the individual must:

(1) complete an application in the format prescribed by the board;

(2) be licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued by South Carolina to a professional counselor, addiction counselor, marriage and family therapist, or licensed psycho-educational specialist;

(3) have not been the subject of disciplinary action relating to his license during the five-year period immediately prior to the submission of the application; and

(4) pay a ten-dollar fee.

(D) The website of a behavioral telehealth registrant must prominently display a hyperlink to the board's website containing information required under subsection (F).

(E) The individual may not register under this subsection if his license to provide professional counseling, addiction counseling, marriage and family therapy, or licensed psycho-educational specialist services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. An individual registered under this section must notify the board of restrictions placed on his license to practice or any disciplinary action taken or pending against him in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.

(F) The board shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:

(1) name;

(2) address;

(3) out-of-state professional license type with the license number; and

(4) South Carolina behavioral telehealth registration number.

(G) The board may take disciplinary action against an out-of-state registrant registered under this section if the individual:

(1) fails to notify the board of any adverse actions taken against his license as required under subsection (E);

(2) has restrictions placed on or disciplinary action taken against his license in any state or jurisdiction;

(3) violates any of the requirements of this section; or

(4) commits any act that constitutes grounds for disciplinary action under the board's statutes or regulations.

(H) For the purposes of this section, the delivery of behavioral telehealth services by a registrant licensed by another state or jurisdiction to a client residing in this State is deemed to occur in this State, and the registrant consents, as a condition of registration, to the personal and subject matter jurisdiction and disciplinary authority of the board.

(I) Nothing in this section requires or authorizes an individual licensed by this State pursuant to this chapter to obtain a behavioral telehealth registration in order to provide behavioral telehealth services to a client residing in this State.

HISTORY: 2022 Act No. 155 (S.1179), Section 3, eff June 12, 2022.



**WHEREAS**, the Defendant did not file and serve upon all necessary parties a Motion for the Court to address his visitation, the Court was requested to address same due to the passage of time. The Court inquired as to the status of the psychological custodial evaluations and was informed that the report should be ready by the end of the month; and

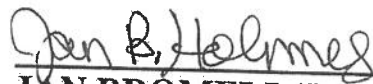
**WHEREAS**, the court is concerned that there has been a delay in the psychological custody evaluations being done and completed as they were ordered since September 23, 2019. The Court anticipated having same presented so that it could address Defendant's visitation as soon as possible upon proper motion being filed by Defendant. The Defendant requested the Court to consider the reports used in the underlying action 2016 DR 26 859. However, this contested custody matter was filed based on a change of circumstances that happened since the parties reached their agreement in the prior action. Thus the reports used in the 2016 action are outdated and insufficient based on the change in circumstances presented in this action.

**NOW THEREFORE**, it is hereby

**ORDERED**, that Defendant's request to waive Mediation in this matter is granted. The attorneys are to provide the Scheduling Clerk their available dates for trial within five days from the filing date of this order so that same may be scheduled.

**IT IS FURTHER ORDERED** that the parties shall cooperate in moving this case forward expeditiously to defray attorney fees and costs of which continues to accrue as long as this case is pending.

**AND IT IS SO ORDERED THIS 12<sup>TH</sup> DAY OF JUNE, 2020 IN CONWAY, SOUTH CAROLINA.**

  
**JAN BROMELL HOLMES**  
Chief Administrative Judge

Judge Exhibit 3

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

SARAH PRICE A.K.A. SARAH  
GALLMAN,

Plaintiff,

vs.

JOHN HITE GALLMAN,

Defendant.

IN THE FAMILY COURT  
FIFTEENTH JUDICIAL CIRCUIT  
CASE NO. 2018-DR-26-3013

TEMPORARY ORDER

<b>HEARING DATE:</b>	August 28, 2020
<b>PRESIDING JUDGE:</b>	Honorable A. E. Morehead
<b>PLAINTIFF'S ATTORNEY:</b>	Ryan Stampfle, Esq.
<b>DEFENDANT'S ATTORNEY:</b>	Rhett D. Klok, Esq.
<b>GUARDIAN AD LITEM:</b>	Russell W. Hall, III
<b>COURT REPORTER:</b>	DCRP

FILED  
 Horry County  
 2020 SEP 16 PM 2:02  
 REGINA J. ELVIS  
 CLERK OF COURT  
 1000 S. BAYVIEW ST.  
 HORRY COUNTY, SC

THIS MATTER CAME BEFORE THE COURT on August 28, 2020 for a Temporary Hearing on the Plaintiff's Motion for Temporary Relief. The Plaintiff appeared with her attorney, Ryan Stampfle, Esq. Also present was the Defendant and Defendant's counsel, Rhett D. Klok, Esq. and the Guardian *ad Litem*, Russell W. Hall, III, Esq.

Based upon the affidavits and other documents presented by the parties, a review of the Court's file, and the arguments of counsel, I make the following findings of fact and temporary ruling:

A. Jurisdiction and Venue

1. The Plaintiff is a resident of Horry<sup>4</sup> County, South Carolina and has been so for more than one year prior to the filing of this action; and
2. The Defendant is a resident of Horry County, South Carolina; and
3. The parties last martial domicile was in Horry County; and
4. The parties have two (2) children born of their union, to-wit: RGG age twelve (11)

RW



born in 2008, GRG age ten (10) born in 2010, and

5. This Court has jurisdiction over the parties hereto and the subject matter hereinafter alleged and venue is proper.

B. Child Custody and Parenting Time

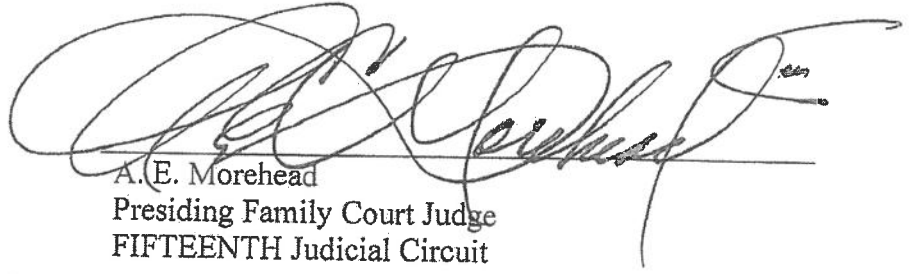
1. The Plaintiff will maintain Temporary Sole Custody on Legal Decisions; and
2. The Defendant and the children are to attend therapy with Dr. Stacy Cretzmeyer, who will direct the appropriate normalization of the contact and visitation with Defendant and the minor children. As to the resumption of visitation between Defendant and children, the parties will follow the recommendations of Dr. Stacy Cretzmeyer.
3. Dr. Stacy Cretzmeyer will be provided with Dr. Sheresa Christopher's evaluation and any records she deems appropriate to perform her therapy between the Father and the minor children.
4. The Defendant will be responsible for the expense of Dr. Stacy Cretzmeyer's sessions with Father and his children. Should the Mother or her spouse have any sessions with Dr. Cretzmeyer they will be responsible for their own expense for that time should it be necessary.
5. The Parties will attend co-parenting therapy with Ms. Wanda C. Lucas, LPCS, and should it be necessary the spouses or significant others will attend sessions as Ms. Lucas deems appropriate to spouses or significant others of the parents.
6. The Parties will be each responsible for their own sessions with Ms. Wanda C. Lucas, LPCS and father will split any joint sessions. The father shall be responsible for any sessions involving the children if necessary.
7. Ms. Lucas will be provided with a copy of Dr. Sheresa Christopher's report and any information she deems appropriate to provide co-parenting therapy to the parties.

C. Attorney Fees and Litigation Costs and Evaluation Costs: The Parties attorneys' fees, litigation costs and the evaluation cost associated with this hearing are held in abeyance to be fully litigated at trial; and

D. Other: All other issues are held in abeyance.

A handwritten signature in black ink, appearing to be a stylized name, possibly "J. Cretzmeyer" or similar, written in a cursive script.

IT IS SO ORDERED!



A. E. Morehead  
Presiding Family Court Judge  
FIFTEENTH Judicial Circuit

Florence, South Carolina  
September 11, 2020

**FAILURE TO COMPLY WITH THIS ORDER WILL SUBJECT THE OFFENDER TO AN ORDER OF CONTEMPT WITH A POSSIBLE FINE, A PUBLIC WORKS SENTENCE, OR IMPRISONMENT IN A LOCAL DETENTION FACILITY, OR ANY COMBINATION OF THEM, IN THE DISCRETION OF THE COURT, BUT NOT EXCEED IMPRISONMENT IN A LOCAL DETENTION FACILITY FOR A PERIOD OF ONE YEAR, A FINE OF ONE THOUSAND FIVE HUNDRED AND 00/100 (\$1,500.00) DOLLARS, OR A PUBLIC WORKS SENTENCE OF MORE THAN THREE HUNDRED (300) HOURS, OR ANY COMBINATION OF THEM, PURSUANT TO SECTION 63-3-620 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED.**

STATE OF SOUTH CAROLINA  
COUNTY OF Horry

Judge Exhibit 4

IN \_\_\_\_\_ FAMILY COURT  
15<sup>th</sup> JUDICIAL CIRCUIT

SARAH PRICE a/k/a SARAH GALLMAN,  
Plaintiff,  
vs.  
JOHN GALLMAN,  
Defendant.

JUDGMENT IN A  
FAMILY COURT CASE

Docket No. 2018-DR-26-3013

Submitted by: Ryan A. Stampfle	Attorney for <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	<input type="checkbox"/> Self-Represented Litigant <input type="checkbox"/> GAL

DECISION BY COURT (check all that apply)

- This action came to trial, hearing or was resolved by consent and an order was rendered.
- This action has been dismissed pursuant to
  - Rule 12(b), SCRPC  Rule 41(a), SCRPC
  - Rule 43(k), SCRPC  Family Court Benchmark
  - Other: \_\_\_\_\_

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court

Additional information for Clerk: \_\_\_\_\_

ORDER INFORMATION

- This is a  Temporary  Final order. If Final, does this order end the case?  Yes  No
- Support  is not ordered  is ordered, and it is to be paid  through the court.  directly to the CP.
- Case number under which support is paid if different from this one: \_\_\_\_\_
- This order involves the immediate  issuance  dismissal of a bench warrant, or  does not apply.
- The following motions are ended by this order (include motion filing date): \_\_\_\_\_
- This order adds or dismisses the following parties to this case:
  - dismiss  add: \_\_\_\_\_
  - dismiss  add: \_\_\_\_\_

FILED  
Horry County  
2021 Jan 12 A.D. 3  
GREEN LEAVES  
COURT REPORTERS  
& VIDEO

INFORMATION FOR THE JUDGMENT INDEX/TRANSCRIPT OF JUDGMENT (§ 20-3-670(B)(1))		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information to enroll, indicate "N/A" in one of the boxes below.		
Judgment In Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount to be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the South Carolina Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: title abstractors and researchers should refer to the official court order for judgment details.

Tina D. Ege  
Family Court Judge

4147  
Judge Code

January 8, 2021  
Date

**FOR CLERK OF COURT OFFICE USE ONLY**

This judgment was entered on the \_\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on \_\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**ATTORNEY(S) FOR THE PLAINTIFF(S)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**ATTORNEYS FOR THE DEFENDANT(S)**

**Court Reporter:** \_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COURT**

**Custodial Parent (if applicable):** \_\_\_\_\_

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

SARAH PRICE,

PLAINTIFF,

VS.

JOHN GALLMAN,

DEFENDANT.

IN THE FAMILY COURT  
OF THE  
15<sup>TH</sup> JUDICIAL CIRCUIT

CASE NUMBER: 2018-DR-26-3013

**FINAL ODER  
(ENDING ACTION)**

FILED  
HORRY COUNTY  
2021 JUN 12 A 10 39  
REBECCAH EVANS  
CLERK OF COURT  
HORRY COUNTY, SC

**Hearing Dates:** November 2-6, 2020  
**Presiding Judge:** Timothy H. Pogue  
**Court Reporter:** DCRP  
**Plaintiff's Attorney:** Ryan A. Stampfle, Esq.  
**Defendant's Attorney:** Rhett Klok, Esq.  
**Guardian ad Litem:** Russell Hall, Esq.

THIS MATTER was scheduled to be heard by the court on November 2 through November 6, 2020. Plaintiff-Mother filed her Complaint and Motion for Temporary relief on December 17, 2018. Defendant-Father filed his Answer and Counterclaim on February 14, 2019. This case was scheduled as five-day trial and all the parties were properly served with the Notice of Final Hearing.

Present at the trail of this case was Plaintiff-Mother and her attorney, Ryan A. Stampfle, Defendant-Father with his attorney, Rhett Klok, and the Guardian ad Litem, Russell Hall.

Plaintiff-Mother testified on her own behalf and provided testimony of several witnesses to corroborate her case. Defendant-Father testified on his behalf and provided testimony of several witnesses.

Based upon the Pleadings, filings contained in the Court record, assertions and arguments of counsel and independent confirmations of the Court, this Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Plaintiff-Mother and Defendant-Father are citizens and residents of the County of Horry, State of South Carolina, and have been so for more than six (6) months prior to the

TJC  
#

commencement of this action.

2. The parties to this action were previously married and have two children, R.G. (female age 11) and G.G. (male age 10). The parties were divorced on June 12, 2017, a Final Order approving parties' Final and Complete Settlement Agreement was issued by the Honorable Jan Bromell-Holmes denominated Sarah Gallman vs. John Gallman, case number 2016-DR-26-859. All issues involving custody and visitation of said minor children were resolved at that time.

3. This is an action for child custody and incidental relief and based on §63-15-240, Code of Laws of South Carolina.

4. This Court has jurisdiction of the parties, the subject matter and venue is proper in Horry County, South Carolina.

5. Pursuant to said Final and Complete Settlement Agreement, the parties agreed that they would share joint custody of the minor children. Plaintiff-Mother would be the primary custodian over medical and Defendant-Father would be primary custodian over religion of the minor children. Plaintiff-Mother would be primary custodian over extra-curricular activities for R.G. and Defendant-Father would be primary custodian over extra-curricular activities for G.G. with the condition that neither child could be on any travel teams until they enter middle school unless both Plaintiff-Mother and Defendant-Father agreed otherwise. There is no designation of primary over education. It also provided, among other things, that the parties should be restrained from harassing, threatening, harming molesting, bothering, following stalking, interfering with, telephoning, or in any way coming about or contacting each other in any way with the exception of with regard to information that is necessary pertaining to the children. Additionally, the parties were required to communicate using Our Family Wizard.

6. On December 22, 2017, Plaintiff-Mother married Chris Price. Defendant-Father has been in a relationship with Krista Neumann and Defendant-Father testified that he plans on getting married soon.

7. I find that eighteen (18) months after the June 2017 Order, Plaintiff-Mother filed a modification action alleging numerous incidents as substantial change in circumstances warranting sole custody, and Defendant-Father in his answer and counterclaim also alleges numerous incidents as substantial changes in circumstances warranting sole custody to him. At the time of trial, both parties are alleged that joint custody is no longer possible. Defendant-Father, during cross examination testified for the first time that he was no longer requesting

a change in custody.

8. At the present hearing, the parties jointly entered into evidence the parties' Our Family Wizard communications since their divorce, through October 21, 2020. In total the parties submitted 3,213 combined messages between the parties. Both parties testified as to the numerous messages between the parties. Further, both parties testified that Our Family Wizard was used for almost all of the parties' communications.

9. The parties both testified that they did not trust each other and that the basis for their mistrust included but was not limited to: each becoming suspicious of each other, incidents at the children's soccer games, issues surrounding their daughter's cell phone usage, exchanges of the children, golf lessons for the children, the choice of Ms. Roberta Bogle to counsel the minor children, Defendant-Father's insistence on having the children attend his church on Plaintiff-Mother's weekends, allegations of derogatory remarks made by both parties, the parties' failure to consult with each other on decisions, poor communication, accusations on both sides of alienation, filming each other all the time, and Defendant-Father's unsuccessful attempt to have Christopher Price charged with assault, and Defendant-Father's failed Order of Protection action against Mr. Price.

10. ~~Commiserate~~ <sup>Commensurate</sup> with the filing of this action, Plaintiff-Mother filed a Rule to Show cause on December 17, 2018 against Defendant-Father for several violations of the Final Order of June 12, 2017. The Rule to Show Cause was heard on February 27, 2019. The court found Defendant-Father in willful violation for abusing "Our Family Wizard", Defendant-Father was found in willful violation as it as it pertained to his conduct exhibited in the presence of the child towards the maternal grandmother at the doctor's office. Defendant-Father was found in willful violation as it pertained to Defendant-Father's conduct exhibited in the presence of the child towards Plaintiff-Mother in the school cafeteria. Defendant-Father was found in willful violation as it pertained to him interfering with Plaintiff-Mother exercising her right to attend the children's extracurricular activities when Defendant-Father called the police to have Plaintiff-Mother and her current husband removed from the golf outing that Defendant-Father and the minor children were attending which caused unnecessary scare and embarrassment to the children.

11. On September 3, 2019 Defendant-Father took the parties daughter, RGG, to the Medical University of South Carolina Health Child Abuse Program (MUSC) for an evaluation, without first consulting Plaintiff-Mother. Defendant-Father was concerned about

potential child abuse at MUSC and was concerned RGG may have been sexually abused. These events occurred during week Hurricane Dorian struck South Carolina on September 4, 2019, and an evacuation was ordered by the Governor McMaster on September 1, 2019. After the medical assessment no physical indication consistent with abuse was noted of RGG, however, Defendant-Father was instructed by MUSC Children's Hospital to have his daughter RGG forensically interviewed by Children Recovery Center (CRC) in Horry County, referred the matter to the South Carolina Department of Social Services and instructed him to file a Police Report as part of their medical instructions. Further, Defendant-Father, after consultation with his attorney refused to return the children to Plaintiff-Mother on Sunday, September 8, 2019 out of his concern the forensic interview be unadulterated. His attorney notified both the Guardian ad Litem and Plaintiff-Mother's attorney via electronic mail the day prior to the ordinary parenting time exchange on Sunday, September 8, 2019.

12. On September 10, 2019, no communication occurred between the parties or the parties counsel or the Guardian ad Litem but Plaintiff-Mother obtained an *ex-parte* Order granting her custody of the children. As a result, Plaintiff-Mother retrieved the children with the local police.

13. On September 12, 2019, the Defendant-Father filed a Motion for Relief of Judgment and Challenge. An Order rescinding the *ex-parte* Order was granted on September 12, 2019 where the regular parenting time according to the parties and agreement and Final Divorce Decree was reinstated with a scheduling of a Temporary Hearing set on September 23, 2019.

14. Pursuant to the instructions made by MUSC, a forensic interview and evaluation of the minor child RGG was scheduled at the CRC in Horry County, South Carolina. The parties in working with the South Carolina Department of Social Services and the Guardian ad litem instructed the parties to have two neutral individuals, selected by the parties, took the minor child, RGG to the Children's Recover Center for an evaluation based upon Defendant-Father's allegations. That the CRC evaluation conducted by Dr. Carol Rahter was consistent with the child's statements at MUSC. The minor child denied any abuse or neglect while with Plaintiff-Mother. The only statement regarding neglect or abuse was the minor child's statement about an incident where Defendant-Father threw her on the bed.



15. The temporary hearing as scheduled for September 23, 2019 before Judge Jan Bromell Holmes. The Court found this was not a joint custody action and the custodial arrangements outlined in the parties prior Order were no longer in effect. The court ordered that Plaintiff-Mother would have sole legal and physical custody of the parties' minor children RGG (female age 10) and GG (male age 9). All decisions regarding the minor children, including but not limited to educational, religion, extracurricular, and medical decisions were to be made by Plaintiff-Mother. Also, Defendant-Father was to have no visitation with the minor children, no telephonic contact or electronic contact with the children, and would not participate or attend any of the children's extracurricular activities. At that time, the Court ordered the parties to participate in a psychological custody evaluation that was to be submitted to the court prior to Defendant-Father having any visitation with the minor children. That September 23, 2019 order stayed in effect until Judge Morehead's order of August 28, 2020.

16. The parties submitted to the Custody Evaluation of Forensic Psychologist, Dr. Sheresa Christopher, PhD from the Medical University of South Carolina. Both parties fully cooperated and satisfactorily completed the co-parenting classes with counselor Wanda Lucas and Defendant-Father successfully completed parent/child reunification counseling and therapy with Dr. Stacy M. Cretzmeyer.

17. During his testimony on November 4, 2020 Defendant-Father finally acknowledged that he now believes Mr. Price never sexually or physically abused the parties' minor daughter, nor that Plaintiff-Mother knew of or ever tried to cover up any abuse. In Dr. Sheresa Christopher's custodial evaluation, Defendant-Father first ever statement that he believed that Mr. Price did sexually assault the parties' daughter months after the September 2019 incident and hearings. He also testified that he no longer felt there had been a substantial change in circumstances and that he was abandoning his claim for sole custody and requesting that the joint custody agreement from the June 2017 Order remain in full force and effect.

18. The Court questioned Dr. Christopher, Ms. Lucas, and Dr. Cretzmeyer during their testimony as to the benefit to the children of the parties agreeing as to the custody, visitation, and decision-making issues as opposed to the Court having to decide the same. The parties have attempted to resolve this matter with counsel, but their attempts have been unsuccessful.

19. The children have resumed visitation with Defendant-Father since Judge Morehead's Order of August 28, 2020 and that visitation has been uneventful for the last month or so.

**SUBSTANTIAL CHANGE IN CIRCUMSTANCES:**

20. In order for this Court to modify custody of the minor children the Court must find:

1.) "the changed circumstances must be substantial or material," Moss v. Moss, 274 S.C. 120, 262 S.E. 2d" (1980); Cook v. Cobb, 271 S.C. 136, 245 S.E. 2d 612 (1978), and;

2.) the substantial change in circumstances "warrant the conclusion that the best interest of the child will be served by the modification", Skinner v. King 272 S.C. 520, 252 S.E. 2d 891 (1974).

21. Based upon the history of this case, and the facts recited above which have occurred since the parties' original agreement; and that up until the date of trial both parties staunchly advocated substantial change in circumstances and requesting sole custody.

22. I find that there has definitely been a substantial or material change in circumstances. I further find that these same facts recited above warrant the conclusion that the best interest of the children would be served by a modification of custody.

**CUSTODY:**

23. Based on the testimony of the parties and their witnesses, the report and testimony of Dr. Carol Rahter from The Children's Recovery Center, the testimony and Custody Evaluation of Dr. Sheresa Christopher, the testimony and Co-parenting Report of Ms. Wanda Lucas, and the testimony and Reunification Report from Dr. Stacy Cretzmeyer this Court finds that there is a need to change the custody of the minor children.

24. Report of Dr. Carol Rahter: Based upon the report and testimony of Dr. Carol Rahter, who is retired as an emergency room physician but is the medical examiner at the Children's Recovery Center (CRC) and preformed the medical examination and interview of the parties' daughter, RGG. She conducted the physical examination of the parties' minor daughter on September 17, 2019 after Defendant-Father took the minor child to MUSC to be evaluated for possible sexual abuse. This examination was conducted in conjunction with Defendant-Father's concern that the minor child, RGG, may have been sexually or physically abused. She was qualified as an expert witness in the field of child maltreatment, including

physical, emotional and sexual. Dr. Rahter's report was admitted as Plaintiff-Mother's Exhibit #8. Based on the history given to her, her review of medical reports, information supplied by the child, and other providers, and her physical examination, she opined that RGG had not been sexually or physically abused by anyone. There was "no abuse of any kind."

25. However, what is concerning to this Court, is the testimony from Dr. Rahter, that Defendant-Father sent her an email on October 7, 2020, one month before the trial, attempting to get her to change her opinion. He forwarded to her numerous pictures of the child at the time of the alleged abuse, etc. Dr. Rahter felt he was telling her that her report was not correct and she needed to change her opinion and report. Dr. Rahter did not respond to his email.

26. Custody Evaluation of Dr. Sheresa Christopher: The first exhibit introduced in this trial was the Child Custody Evaluation Report of Dr. Christopher (Plaintiff's Exhibit 1). This report is one hundred and two (102) pages long and is very thorough and based on actual data presented to Dr. Christopher and her staff. Dr. Christopher was qualified as an expert witness in the field of Forensic Psychology and allowed to give opinions as to custody of the children in this case. The evaluation was requested by the GAL on October 17, 2019 after a Temporary Order was issued on October 11, 2019 granting sole legal and physical custody to Plaintiff-Mother and suspended Defendant-Father's contact and visitation with the minor children. Dr. Christopher and her staff conducted eight (8) in-person encounters, three (3) telephone conferences, and reviewed one hundred and twenty-seven (127) different documents. The evaluation was completed and the evaluation reported out on July 28, 2020. Throughout the entire process both parties were advocating sole custody to them.

27. Beginning on page eighty-six (86) of the evaluation Dr. Christopher began reciting her "Impressions" and Recommendations." She discussed each party's: 1) Mental health; 2) Safety; 3) Family dynamics to include: a) Alienation, b) Estrangement; c) Additional contributing dynamics; and d) Summary of family dynamics; 4) Child custody, including legal decision making and visitation; and 5) Recommendations.

28. In regard to the parties' Mental Health, Dr. Christopher began with Plaintiff-Mother and referred to the mother's prior diagnoses of depression and anxiety. She previously was prescribed medications for these disorders but stopped these medications prior to the action being filed. During the interview Plaintiff-Mother appeared anxious at times and was quiet in her speech. However, Dr. Christopher opined that Plaintiff-Mother was "not

currently experiencing clinically symptoms of depression, trauma exposure, or anxiety at this time." She further opined, "all considered, there is no indication that current sub-clinical symptoms described are impacting Mrs. Price's ability to parent RGG or GG at this time." Id. 88.

29. Although Plaintiff-Mother has potential deficits in attention associated with ADHD, and more specifically the way in which she processes information; there is no data to suggest such deficits would impair Plaintiff-Mother's ability to parent her children. Id. 88.

30. Finally, Dr. Christopher stated in her evaluation that Plaintiff-Mother did not meet criteria for a substance abuse disorder.

31. As to Defendant-Father's mental health, Dr. Christopher stated he did not evidence problems with mood, anxiety, trauma, attention or psychosis. However, Dr. Christopher did opine that during the time of the evaluation she identified Defendant-Father "has narcissistic and paranoid traits that could be potentially problematic." On Page 90 of her evaluation she states as follows:

"He was difficult to redirect, overly directive at times, repeatedly asserted his opinions, and appeared to have difficulty accepting personal responsibility, as he often attributed blame to others. Defendant-Father repeatedly expressed concern regarding the intentions of others (e.g. several professionals, including DSS, several GAL's, school employees, the children's therapist, various legal professionals) and he alleged individuals have colluded against him." Id. 90.

32. However, on Page 91 of her evaluation when describing these problematic personality characteristics, she opined;

"That said, given the data available for review at this time, there is insufficient data to indicate problematic traits occur outside of the context of this chronic dispute. Thus, no personality diagnosis is offered at this time." Id. 91

33. Finally, with regard to Defendant-Father, Dr. Christopher stated there was no data to suggest problematic substance use and diagnostic criteria for a substance use disorder was not met.

34. In regard to issues of safety, Defendant-Father alleged that Plaintiff-Mother has been emotionally abusive to both RGG and GG by engaging in alienation. He further, throughout the evaluation, alleged Plaintiff-Mother's husband either physically or sexually abused RGG and that Plaintiff-Mother failed to protect her. Id. 46 and 91. Dr. Christopher opined that there is some data to suggest Mrs. and Mr. Price may have overshared

information about adult situations and this litigation, "there is no data to suggest such statements were deliberate with intent to disrupt the children's relationship with Mr. Gallman." Id. 92.

35. Finally, Dr. Christopher stated in her evaluation, "all considered, there is no objective and verifiable information to suggest Mrs. Price has engaged in child maltreatment as alleged by Mr. Gallman. . . . All considered, data does not suggest either child is at risk of harm or maltreatment while in the care of Mrs. Price." Id. 92.

36. Plaintiff-Mother made similar allegations of neglect and physical and emotional abuse toward RGG and GG by Defendant-Father. After fully discussing many of these allegations by Plaintiff-Mother, RGG and others as to Defendant-Father's alleged abusive and manipulative behavior, Dr. Christopher finally concludes on Id. 95 of her evaluation:

*"In sum, data suggests that Defendant-Father has engaged in problematic behaviors as described above that have resulted in others feeling concerned for their safety. . . . Taken together, it is the opinion of the undersigned that while there is no indication that RGG or GG's physical wellbeing and safety is at risk while in the care of Mr. Gallman, the behaviors outlined above are likely to negatively impact the children's wellbeing if not remedied immediately." Id. 95*

37. The third topic Dr. Christopher discusses in Impressions and Recommendations is family dynamics to include alienation. She discusses alienation vs. estrangement and also additional contributing dynamics and finally a summary of family dynamics. Once again, her opinions are based on all of the data supplied to and reviewed by her and her team. This is fully discussed in Pages 95-100. The court is not going to reference each and every allegation and opinion in this section of her evaluation but will touch on the highlights and summary.

38. First, Dr. Christopher defines alienation and estrangement and gives a brief summary as it pertains to both parents:

*"Parental alienation is a concept used to describe the actions of the preferred parent which are directly or indirectly contributing towards a change in the child's perception and resulting in an adverse impact to the targeted parent's relationship to the minor child. To the contrary, estrangement is a concept used to describe a parent's past actions that have resulted in an adverse impact to that parent's relationship to the minor child. All data considered, it is the evaluator's opinions that both parental alienation and estrangement in addition to other related factors are currently contributing to the problematic family dynamics and negatively impacting RGG and GG and their relationship with Defendant-Father. Specifically, it is our opinion that Plaintiff-Mother (and Mr. Price) and Defendant-Father have engaged in behaviors with*

*the potential to alienate the children from the other parent. Further, Defendant-Father has engaged in behaviors with the potential to negatively impact his relationship with children . . ."* Id. 95 & 96.

39. The report then goes on to discuss many incidents involving both parents and Mr. Price that have the potential to negatively impact each parent's relationship with their children. At the end of this discussion Dr. Christopher opines as follows:

*"All considered, both parents appear to be engaging in problematic behaviors that are apparent to the children and have the potential to thwart the children's relationship with the opposite parent. Thus, it is recommended that both parents take special care to eliminate the children's exposure to litigation and actions reflecting negatively on the opposite parent (verbal and non-verbal.)"* Id. 97.

40. Dr. Christopher next discusses the incident leading to Defendant-Father taking RGG to MUSC for a sexual abuse examination in September of 2019; the subsequent "kidnapping incident" leading to his suspension of all contact with his children. She further discusses Defendant-Father's constantly recording the children and incidents involving exchange of children, the soccer games and the golf incident. She opined, "in sum, the above described behaviors appear to have adversely impacted Defendant-Father's relationship with both children. . . . Failure to remedy these behaviors is likely to continue to substantially impact both children's relationship with Defendant-Father, regardless of Mr. Price's role (e.g., engaging in behaviors with the potential to result in alienation)." Id. 98.

41. Dr. Christopher next addresses other additional contributing dynamics which affect these parties' relationships with their children. She addresses the parties' poor communication with one another through use of accusatory and argumentative language, threats of continued litigation, and communication to document transgressions. She further opines that both parents have unnecessarily exposed the children to conflict due to their own discontent and discomfort.

42. With regard to the parties' social circles Dr. Christopher states:

*"Both parents and their social support groups (e.g. family, friends) have publicly shared information about the legal dispute and associated allegations."* Id. 98.

43. She discussed Mrs. Price's friends making disparaging remarks and participating in demonstrations against Defendant-Father during his political campaign. Likewise, Defendant-Father's supporters (e.g. family) publicly posted disparaging social

media context about Plaintiff-Mother and Defendant-Father speaking publicly about the dispute when interviewed on "Dad Talk Today with Eric Carroll". Id. 98-99

44. Also concerning to Dr. Christopher is Defendant-Father's repeated involvement of several child protection and law enforcement agencies in the absence of data reflecting concern for safety or unlawful behavior; especially his continued insistence that RGG experienced sexual abuse by Mr. Price and that Plaintiff-Mother had knowledge of this abuse. Dr. Christopher states as follows:

*"The logic presented by Mr. Gallman in this context is skewed and not supported by data. . . . Thus, it is recommended that Mr. Gallman work in the context of individual therapy to balance extreme or inaccurate thoughts to improve his interpersonal effectiveness and mitigate the potential negative impact to the children of unjustified allegations."* Id. 99.

Additionally, on Page 99, Dr. Christopher opines:

*"While both parents have the ability to promote a healthy relationship between RGG and GG and the other parent, concerns outlined above are likely to hinder their efforts unless immediately remedied."* Id. 99.

45. In summing up her findings as to family dynamics, Dr. Christopher closes with the following at the bottom of Page 99 and top of Page 100:

*"It is apparent that the relationship with both children and Defendant-Father continues to be negatively impacted, as described, this appears to be a function of Defendant-Father's own behaviors, the children's exposure to conflict by both parents, and behaviors with the potential to result in alienation exhibited by Plaintiff-Mother and Mr. Price."* Id. 99-100

46. She concludes that *"actions on the part of both parents should be immediately repaired to insure the best possible outcome for the children."* Id. 100.

47. With regard to child custody including legal decision making and visitation, taking into account all of the data reviewed, tests given and interviews conducted, Dr. Christopher opines as follows:

*"All considered, it is the opinion of the undersigned that the children remain in the primary custody of Plaintiff-Mother and that Plaintiff-Mother maintain legal decision-making authority pertaining to the children. This opinion was ultimately reached with consideration given to parent characteristics, child characteristics, the apparent family dynamics, and the quality of each parent-child relationship given high family conflict. It is recommended that unsupervised visitation be awarded to Defendant-Father given no data to conclude that the children's physical safety and wellbeing is at risk while in his care. As described, there is data to suggest both parents have contributed to the*

*complex and conflictual family dynamics in varying ways. Similarly, there is data to suggest that both parents played a role in the damage that has been done to the relationship between RGG and Defendant-Father, as well as in the experience of conflict for G.G. Thus, it is our opinion that it is in the best interest of the children for the parents to immediately work to remedy the concerns identified during this evaluation. Further, it is highly important that both parents refrain from oversharing information disparaging to the other parent, and exposing the children to high conflict and litigation in order to serve the best interest of both children."* Id. 101.

48. The evaluation concludes with five (5) bullet points as it pertains to custody, legal decision-making and visitation which can be summarized as follows: Plaintiff-Mother maintaining primary custody and legal decision-making; Defendant-Father being awarded unsupervised visitation with both children with a transitional period recommended for RGG and Defendant-Father; Both parents refraining from oversharing information, disparaging the other parent, and exposing the children to high conflict; Custody exchanges take place at a public location and contact with other parent is limited when possible to reduce exposure to conflict; and Co-parenting therapy for Defendant-Father and Plaintiff-Mother. Id. 100.

49. The evaluation had several recommendations for Plaintiff-Mother, those can be summarized as follows: Individual therapy to appropriately manage anxiety in times of stress; and a consultation with a treating psychiatrist to discuss the potential therapeutic benefit of psychiatric medications to assist in symptom management. Id. 101-102

50. The evaluation had recommendations for Defendant-Father, those can be summarized as follows: Individual therapy with a licensed mental health provider trained in evidence-based interventions and this provider should be objective with no prior relationship with Defendant-Father. Id. 102

51. The evaluation had several recommendations for the minor children, RGG and GG, those can be summarized as follows: Individual therapy to provide therapeutic support during a period of transition. These sessions to concentrate on each child's ability to communicate their concerns, develop autonomy, and cope with anxiety related to change and exposure to high family conflict; both parents actively participate in the therapeutic efforts in order to support the children, develop appropriate behavioral management techniques, and facilitate positive change. She further suggests an evidence-based psychotherapist with no prior relationship to any party in order to insure both children and both sets of parents maintain an active role in the therapeutic process; Defendant-Father and RGG work to repair their



relationship in the context of psychotherapy given the disruptions that have occurred; and Corporal punishment is not recommended.

52. Before discussing Ms. Wanda Lucas and Dr. Cretzmeyer's reports, the Court would be remiss if it didn't mention that within an hour of the GAL furnishing Dr. Christopher's Evaluation to all parties and attorneys, "Mr. Gallman forwarded an article back to the GAL, his attorney and Dr. Christopher stating "Forensic Psychology is going away. They are unethical, they cannot survive. Child custody evaluations will dry and blow away like tumble-weeds because of lack of demand once a treatment-oriented legal argument package becomes established . . . Forensic Psychology is going away. It will vanish because it is an unethical practice . . ." Page 15 and 16 of GAL report. Therefore, once again, still at this time, Defendant-Father dismisses any opinion that does not agree with his opinion or his perception of the situation. As further pointed out by the GAL, Dr. Christopher is a forensic psychologist and selected by Defendant-Father through his attorney to conduct the Custody Evaluation and give expert testimony as to the same. However, the Court would also be remiss if it didn't note that shortly after Dr. Christopher's evaluation was released the parties had another hearing before Judge Morehead to attempt to implement the co-parenting and reunification therapy with the children. Judge Morehead ordered the same and the parties and the children fully participated in and successfully completed those counseling and therapy sessions which are now discussed below.

53. As stated, the parties participated in co-parenting sessions with counselor, Wanda Lucas. Ms. Lucas testified as to her co-parenting sessions with the parties. She was qualified as an expert witness in the field of co-parenting and therefore allowed to give her opinions as to the same. She further testified she was not qualified, nor asked, nor would she give an opinion as to custody. She testified that she had sixteen (16) sessions with the parties since Judge Morehead's Order from the August 28, 2020 hearing. Basically, she had sixty (60) days to conduct these co-parenting sessions. She met with each of the parties individually and at times with their spouses or significant others and Defendant-Father and Plaintiff-Mother together. They both worked hard together to create a better environment and relationship for and with their children. Ms. Lucas testified that at first both parties made inappropriate remarks at which time she would stop the session and direct them to adhere to her rules and goals. As the sessions went on, the parties became more comfortable and a calm atmosphere was present. Both parties worked very hard toward reaching an agreement

on a co-parenting plan they could be comfortable with and operate under. Ms. Lucas' report and the co-parenting plan were introduced as Defendant-Father's Exhibit #19. I will not discuss each bullet point in the plan however, as Ms. Lucas testified, the two most important points were to make sure the parents will ensure the children be provided "PREDICTABILITY" in their lives and also "NEVER INVOLVE CHILDREN IN A SITUATION THEY CANNOT CONTROL. NEVER INVOLVE CHILDREN IN ADULT MATTERS."

54. Ms. Lucas further opined that both parents were "fabulous parents." She stated her role was to assist Sarah and John in caring about these children MORE than they may dislike each other. She further reported that both acknowledged this, however, "changing words into ACTIONS is what cognitive behavioral therapy seeks as its ultimate goal." She further testified that "it is my professional opinion that it will benefit the children to be provided equitable time with both parents." Finally, she opined that it would be best for the parents to take a two (2) week to one (1) month break from sessions and then continue the same once a week for up to six (6) months.

55. Finally, the Court asked Ms. Lucas if it would be much more beneficial to the children and a sign of their co-parenting progress if the parties could reach an agreement as to custody and visitation as opposed to the Court having to rule on the same. Her response was yes.

56. The last expert to testify was Dr. Stacy Cretzmeyer who conducted the reunification therapy between Defendant-Father and his children per Judge Morehead's August 28 ruling. Once again there was a short window in which to attempt to successfully complete this reunification process. Dr. Cretzmeyer was qualified as a licensed therapist and allowed to give her opinion testimony as to her field of expertise. Once again, she did not give, nor was asked, nor testified to the issue of custody. Her goal was to attempt reunification between Defendant-Father and his children, especially RGG. She further reported she would have no input regarding parenting issues inasmuch as Judge Morehead appointed Ms. Lucas for this purpose. As stated in her final report dated October 31, 2020 (two (2) days before the start of the trial) her role was a temporary one involving developing and implementing a therapy plan, and a visitation schedule for Defendant-Father and the children. Her final report was admitted as Defendant-Father's Exhibit #23. She opined that her task was a unique challenge from the outset in that Defendant-Father had not had any contact with his children for almost a year. They had been "frozen in time." Her final report was based upon her review

of the objective facts of record, her discussions with various adults involved in the case, some of the nuances of the counseling sessions, as well as outcomes of the counseling sessions.

57. A therapy plan for Defendant-Father and his children was proposed by Dr. Cretzmeyer. It was introduced as Defendant-Father's Exhibit #24. Suffice it to say that Dr. Cretzmeyer identified four (4) problems that needed to be overcome for Defendant-Father to be reunified with his child so that he could spend quality unsupervised time with them. Those problem areas were:

- Problem 1: Lack of communication between father and children  
Due to forced emotional cut-off for nearly one year.  
Expected # of sessions to achieve: 3
- Problem 2: Reported lack of trust and high anxiety of daughter toward father.  
Expected # of sessions to achieve: 2
- Problem 3: Ineffective approaches to angry and upset feelings  
Expected # of sessions to achieve: 3
- Problem 4: Confusing family roles and rules  
Expected # of sessions to achieve: 3

58. Dr. Cretzmeyer opined in her final report that all four (4) behavior problems outlined above had been met and the therapy plan had been completed and in fact exceeded. Both parents and the children signed an agreement entitled "The Family of Our Dreams" which detailed strategies all would strive to adhere to secure the future of their family relationship. Dr. Cretzmeyer was extremely impressed with Defendant-Father's willingness to do whatever was necessary on his part to reunite himself with his children. Dr. Cretzmeyer reported he went over and above what was requested of or expected from him to accomplish this goal. Plaintiff-Mother was much more hesitant in a speedy reunification which was understandable based on the mistrust of the parties in the past and the sexual abuse allegation and "kidnapping incident." Dr. Cretzmeyer testified as to possible enmeshment between Plaintiff-Mother and RGG. Although she made no "diagnosis" of enmeshment, she did state that Plaintiff-Mother and RGG needed to have their respective roles more clearly defined. Plaintiff-Mother was the mother, RGG was the daughter and not her friend and emotional confidante.

59. As stated above, Dr. Cretzmeyer was very impressed with Defendant-Father's willingness to do whatever it took. On Page 5 of her final report she opined:

*"As I stated to the children in one of the sessions, in my now 26 years as a counselor, I have never encountered a father who was so intent upon being a nurturing and loving father to his children, while at the same time expressing repeatedly his desire for them to have a good relationship with their mother."*

60. Also, as stated above, Dr. Cretzmeyer expressed that all treatment goals had not only been met and completed but exceeded. She reported on Page 9 of her final report:

*"I am confident that both children feel comfortable and secure in discussing their thoughts and feelings and concerns with their father at this time. I have witnessed this from both children and they have clearly reconnected with their father. I believe the reunification process has been successful and beneficial."*

61. Finally, Dr. Cretzmeyer wanted to stress that the process between Defendant-Father and his children in rebuilding a healthy, nurturing and loving relationship should continue. She (like the GAL) recommends that the family eventually continue with counseling as well as the co-parenting instructor's wise guidance. She recommends the family enlist help from a licensed marriage and family therapist "to guide them forward." She would be willing to recommend three (3) such therapists for the parties to choose from.

62. Her final recommendations are for the children to take a break for at least a month to give them some time to process the therapeutic journey of the counseling session they have had with their father and to put some of the strategies they covered with Dr. Cretzmeyer into practice on an ongoing basis. She stated she felt Plaintiff-Mother should try to develop a more positive and realistic outlook, going forward, about the father's positive impact on the lives of these children and to learn to separate her reported negative experiences and view of him as her ex-husband from his role as father. She further recommends that Defendant-Father and children would greatly benefit from an extended vacation, unsupervised. This would give the opportunity for Defendant-Father and children to spend extended time in a relaxed atmosphere to continue healing their relationships. Lastly, she requests Plaintiff-Mother continue to step out of her comfort zone to comply with the agreement reached with Ms. Lucas as to cooperation with exchanges, visitations, etc., and also to address her possible ADHD tendencies as they pertain to her processing information.

63. The Court asked Dr. Cretzmeyer the same question he asked Ms. Lucas as to the beneficial effect an agreement between the parties would have on the children concerning custody and visitation as opposed to the Court having to make a final ruling on the same. Her response was the same as Ms. Lucas.

64. Sole Custody vs. Joint Custody: As discussed earlier, both parties up to the date of trial were requesting sole custody as opposed to continuing the joint custody arrangement previously exercised by the parties since June of 2017. It wasn't until Wednesday afternoon on the third day of the trial that Defendant-Father was abandoning his request for sole custody and was asking the court to keep the June 2017 Joint Custody Order in place.

65. Section 63-3-530 (A (42) gives the Family Court Judges the authority to "order joint or divided custody where the Court finds it is in the best interests of the child. However, although the Legislature gives Family Court Judges the authority to order joint or divided custody when the Court finds it is in the best interest of the child . . . joint or divided custody should only be awarded when there are exceptional circumstances." Clark v. Clark, 423 S.C. 596, 606, 815 S.E. 2d 772, 777 (Ct. App. 2018); Burgess v. Arnold, 422 S.C. 162, 168, 810 S.E. 2d 255 (Ct. App. 2018); Tomlinson v. Melton, 428 S.C. 607, 612, S.E. 2d 230 (Ct. App. 2019). The Court of Appeals in the Tomlinson case cited the case of Mixson v. Mixson, 253 S.C. 436, 446, 171 S.E. 2d 581, 586 (1969) which stated they still held case law in South Carolina favoring sole custody versus joint or divided custody. "Divided custody is usually harmful to and not conducive to the best interest of the children." The court in the Tomlinson case further cited the case of Scott vs. Scott, 354 S.C. 118, 579 S.E. 2d 620 (2003) which set out the rationale why our Courts disfavored custody:

*"The Courts general endeavor is to avoid dividing the custody of a child between contending parties, and are particularly reluctant to award the custody of a child in brief alternating periods between estranged and quarrelsome persons. Under the facts and circumstances of a particular case, it has been improper to apportion the custody of a child between parties . . . for ordinarily it is not conducive to the best interests and welfare of a child for it to be shifted and shuttled back and forth in alternative brief periods between contending parties, particularly during the school term. Furthermore, such an arrangement is likely to cause confusion, interfere with the proper training and discipline of the child, make the child the basis of many quarrels between its custodians, render its life unhappy and discontented, and prevent it from a normal life."*

66. As in the Tomlinson<sup>1</sup> case the Court applauded "both parents for their part in raising a respectful, intelligent, and caring child." This Court cannot express its gratitude and

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<sup>1</sup> The Court applauds Judge McDonald's separate concurring opinion in the Tomlinson case which questions whether sole custody preference is outdated and limits the options available to parties, Family Court practitioners, and Family

respect for these two parents coming together the last few months to participate in and cooperate with the co-parenting classes and reunification therapy for Defendant-Father and his children. After three (3) years of contentious and high conflict litigation going on between these parties, they have finally decided to put their personal interests and conflicts behind them and work together for the best interest of the children. However, they continue to have very conflictive parenting styles, have had a very divisive relationship, mistrust and failure to effectively communicate on both parties' part. Therefore, I find there are no exceptional circumstances warranting joint custody. Sole custody is still the law in South Carolina, unless the Court finds exceptional circumstances. (Emphasis added).

67. Having determined that there are no exceptional circumstances warranting an award of joint custody the Court must now look at all the statutory factors the Court must consider as to which parent should be awarded sole custody.

68. South Carolina Code of Laws, Section 63-15-240 (B) sets out the seventeen (17) statutory factors the Court is to consider in ruling on the custody of minor children. Although many of these factors have been touched on already, this Order will now address each factor separately.

1.) The Temperament and Developmental Needs Of The Child: There are two children who are the subject children in this custody case; RGG, a girl age 12 and GG, a boy age 10. Both children are very smart and excel in school, sports, and extra-curricular activities. RGG and GG were both diagnosed with adjustment disorder with anxiety, much more so with RGG. This is understandable due to her having to go through a sexual abuse interview, examination and assessment when there was no evidence or report of sexual abuse by RGG. In conjunction with this allegation of sexual abuse by the father came the "kidnapping" incident where the children were led to believe their father was not going to return them to their mother. The children have also been exposed to adult situations by both parents, exposed to conversations about the litigation by both parents, as well as derogatory remarks. During the time RGG experienced some bed wetting problems. She was much more affected by this litigation and events surrounding this than GG. RGG's relationship was very strained

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Court Judges seeking the best custody plans for families under the particular circumstances of their case and family situations.

with her father (with possibly some prompting by the mother) and she wanted nothing further to do with him.

GG is very quiet, and until recently not very open with his feelings or speaking up. He is a very quiet and loving child who simply wants everyone to be happy.

Ms. Wanda Lucas opined (and the parties agreed) that it was extremely important for the welfare and best interest of these children for them to have "predictability and stability" in their lives, and feel comfortable in each parent's home and not a "visitor." She also testified (and the parties agreed) that it was extremely important that the parents never involve these children in adult matters or situations that the children had no control of.

Both parents appear to understand the goals of the co-parenting training and also the reunification therapy conducted by Dr. Cretzmeyer. They have "obtained" this insight and obtained those services necessary for the children to have a loving, nurturing, and stable relationship with both parents. The task now for these parents is to maintain this insight and follow through with the services. At this time the Court feels both parties are committed to this process to meet the developmental needs of their children.

2.) The Capacity and the Disposition of the Parents to Understand and Meet the Needs of the Children: Once again, this has been thoroughly covered in the previous discussions of the experts' testimony and their reports which were all admitted into evidence, and there is no need to rehash them again. There has been a lot of mistrust, lack of communication, and desire for control of the children exhibited by both parties throughout this litigation. They both have exposed these children to adult situations and conflict that children that age need not be exposed to, but the children have done remarkably well in spite of this. Defendant-Father's prior conduct has given the Court more concern than Plaintiff-Mother's. He tried to get Dr. Rahter to change her report about no sexual abuse less than one month before the trial. He was attempting to do this all the while he was in co-parenting sessions and reunification therapy. He was saying one thing to Ms. Lucas and Dr. Cretzmeyer while acting in the opposite manner. As stated previously, he did not abandon his belief that RGG was sexually or physically abused by Mr. and/or Plaintiff-Mother, or anyone until the third day of the trial.

Also disconcerting to this Court was his emailing Dr. Christopher and the GAL about forensic psychology not being a viable process when it was his choice of psychologist who conducted the custody evaluation.

As noted above there has been a thorough discussion of each party's strengths and weaknesses as it pertains to their ability to understand and meet the needs of the children. The Court cannot commend the parties enough for their willingness and participation in the co-parenting and reunification therapy. Hopefully it will take, and with continued counseling in the future both parties will be able to continue to meet their children's needs.

3.) The Preferences of Each Child: Both children have expressed a desire to continue to live with their mother, RGG more so than GG; as stated previously GG just wants to make everyone happy and avoid conflict. The children are feeling more comfortable in Defendant-Father's home at this time, but there is still a strong preference for them to stay with their mother.

4.) The Wishes of the Parents as to Custody: Both parents were seeking sole custody when this action started. Plaintiff-Mother wanted to make all major decisions for the children with the exception of the spiritual decisions. She realizes how important Defendant-Father's faith is to him and as long as she can take the children to her desired church on the Sundays the children are with her, she is willing to allow Defendant-Father to make the religious decisions. She is willing to discuss decisions she will make on behalf of the children with Defendant-Father but she wants it clear she will be making the decisions.

Defendant-Father desired sole custody of the children and all decision making on their behalf at the start of this litigation. Surprisingly on the third (3<sup>rd</sup>) day of trial he testified that he wanted joint custody with the exact same provisions as the June 2017 Order. As explained in great detail above, this is not a joint custody case.

5.) The Past and Current Interaction and Relationship of the Children With Each Parent, the Child's Siblings, and Any Other Person, Including a Grandparent, Who May Significantly Affect the Best Interest of the Child: Prior to the disruption caused by the September 2019 allegation of sexual abuse by Defendant-Father as to RGG, it appeared that all parties were cooperating with providing quality time with all family members including grandparents. Both sets of grandparents were spending quality



time with the children. However, Defendant-Father and Mr. Price never got along or trusted each other and both made every attempt to demean, film, or criticize the other in front of the children. After the September 2019 incident, and Plaintiff-Mother having full custody and Defendant-Father's access to the children being cut off, Plaintiff-Mother did in fact cut off visits and communication of Defendant-Father's parents and family. In retrospect, and through the co-parenting and reunification therapy, she has realized how important it is for the children to be allowed to spend time with Defendant-Father's family. Defendant-Father has testified he would like to sit down with Mr. Price to discuss their differences and conflicts and work together for the children's benefit. The Court is glad this has finally taken place, but this co-parenting counseling should have taken place a long time ago. The Court applauds their efforts at this late juncture and hopes the parties can continue to put aside their personal interests and work together for the children's best interest.

6.) The Actions of Each Parent to Encourage the Continuing Parent-child Relationship Between the Child and the Other Parent, as is Appropriate, Including Compliance with Court Orders: Much on this factor has previously been discussed above. From the time of the June 2017 joint custody Order to Judge Morehead's August 28 Order, both of these parties did nothing or little to nothing to encourage the continuing parent-child relationship with the other party. Defendant-Father was found in contempt of numerous items from the June 2017 Order. Both made numerous allegations in their pleadings, to law enforcement, all the experts and evaluators and therapists, etc. against the other and showed no willingness to work together for the best interest of their children. Thankfully, after Judge Morehead's Order of August 28, 2020 the parties, especially Defendant-Father, have made a complete 180 degree reversal and are willing to do whatever it takes to continue with a nurturing, supporting, and healthy relationship with the other parent. I am cautiously optimistic both will continue to do so after my Order is issued in this case.

7.) The Manipulation by or Coercive Behavior of the Parents in an Effort to Involve the Children in the Parents' Dispute: Again, this has been fully discussed above. Prior to the co-parenting and reunification sessions being implemented, both parties continued to attempt to manipulate and involve the children in their disputes. Defendant-Father was much more active in this manipulation than Plaintiff-Mother,

due to each's personality. Whenever someone in this process had a different opinion than him, he attempted to sway them to his line of thinking or attempted to remove them from the process. He even made a motion to relieve the GAL on the first (1<sup>st</sup>) day of the trial. By the execution of their co-parenting agreement to keep the child out of their adult conflicts, and what they have stated they have learned from the reunification process, the Court hopes, prays, and as stated above, is cautiously optimistic the parties will continue with their commitments to put aside their personal differences and work together for the best interests of their children.

8.) Any Effort by One Parent to Discourage the Other Parent in Front of the Child: This has been discussed ad infinitum above, and no need to readdress the same.

9.) The Ability of Each Parent to be Actively Involved in the Life of the Children: Plaintiff-Mother is only working part time and she, along with her husband, can be actively involved in the children's lives, as has been demonstrated in the past. Likewise, Defendant-Father has always shown the ability to be actively involved in his children's lives as a coach, school improvement council member, etc. Both parties should be able to continue to be actively involved.

10.) The Child's Adjustment to His or Her Home, School, and Community Environment: Even though the children had no contact with the father, they appear to have adjusted very well to Plaintiff-Mother's home with her current husband Mr. Price. The children have expressed they like living with their mother, like Mr. Price, and are happy and doing well in their current school. Both are still making superior grades in school with no discipline problems. They also continue to be actively involved in sports and other extra-curricular activities in their community.

According to all of the testimony the reunification process between Defendant-Father and the children is going well and the children appear to be making a positive adjustment back into the home of their father.

11.) The Stability of the Child's Existing and Proposed Residences: As testified to by Ms. Lucas and agreed to by the parents, predictability and stability is extremely important for these children. Mr. and Plaintiff-Mother's marriage appears to be very solid with Mr. Price in total support of Plaintiff-Mother and what is in the best interest of his stepchildren. The children and Mr. Price appear to have a very strong bond together.

Defendant-Father appears to be very stable in his current residence also. His significant other, Krista, testified and I believe is very supportive of him. They have been together for a few years now and her daughter and Defendant-Father's children appear to have developed a bond together. Therefore, both homes at this time appear to be very stable.

12.) The Mental and Physical Health of All Individuals Involved: Once again this has been more than fully discussed in other portions of this Memorandum and need not be addressed again.

13.) The Child's Cultural and Spiritual Background: Defendant-Father is an ordained Baptist minister, and his faith is very important to him. He has been the primary spiritual influence for the children. Plaintiff-Mother has acknowledged this, and although she is requesting sole custody, she is willing for Defendant-Father to continue to have primary decision-making ability so long as she may make decisions for the children as to church attendance on the Sundays they are with her.

14.) Whether the Child or a Sibling Has Been Abused: As discussed earlier there have been numerous allegations of abuse (physical, emotional, and sexual) made by both parties against the other. Dr. Christopher addressed all of these in her custody evaluation and determined there was no actual data to confirm any type of abuse against either parent. Some of their behaviors were problematic but she opined there was no abuse by either party and the children were safe in both parents' homes.

15.) Whether One Parent has Perpetrated Domestic Violence or Child Abuse: As stated in the above paragraph, there was no verifiable date of domestic abuse by one party against the other, or child abuse as opined by Dr. Christopher in her Custody Evaluation. Many allegations made, but none substantiated by any of the evaluators or experts.

16.) Whether One Parent has Relocated More than 100 Miles from the Child's Primary Residence in the Past Year: This is not a factor in this case.

17.) Other Factors as the Court Considers Necessary: I truly believe that all concerns of the Court have already been mentioned and addressed.

69. Based upon all the above that has been discussed: I find more likely than not it is the best interest of these children for Plaintiff-Mother to have sole custody of the parties' minor children. She is to discuss major decisions concerning the children's welfare with

Defendant-Father, but she has the sole decision-making authority. However, also as stated above, Defendant-Father shall have primary decision-making ability as to the children's spiritual and religious decisions, with Plaintiff-Mother being able to take the children wherever she deems appropriate on the Sundays the children are with her.

**VISITATION:**

70. All of the experts, Dr. Christopher, Ms. Lucas, and Dr. Cretzmeyer all opine that Defendant-Father should have substantial quality time with his children from this time forward. The Court agrees; however, this Court does not agree that Defendant-Father should have fifty percent (50%) of the time with the children. As testified to by the experts upon questioning by the Court "co-parenting is not the same as joint custody or fifty percent (50%) of the time with each parent."

71. The Court has already given its oral ruling at the close of the trial which will carry the parties up to Monday, November 23<sup>rd</sup> at 6:00 p.m. Defendant-Father will have the children with him until 5:00 p.m. Thanksgiving evening, November 26<sup>th</sup>. Plaintiff-Mother will then have them until Thursday, December 3<sup>rd</sup> when the children get out of school. Defendant-Father will pick the children up from school and the regular visitation as outlined below will begin:

72. Standard visitation: Father will have the children every other Thursday after school until Monday, returning the children to school. If the children are not in school on Monday due to a regular school holiday, he will have the children until 6:00 p.m. He will also have the children with him overnight in the off week on Thursday from release of school until school the next day.

73. Summer Vacation: The same schedule will apply with weekends running from alternating weekends from Thursday at 5:00 p.m. until Monday at 10:00 a.m. and on the off weeks Thursday at 5:00 p.m. to Friday at 10:00 a.m. Each party will be entitled to three (3) weeks. Defendant-Father may have two (2) consecutive weeks if he so desires. The court is making this provision to allow him to schedule extended summer trips which they have enjoyed in the past. Defendant-Father will have first choice and will notify Plaintiff-Mother by April 15<sup>th</sup>. Failure to notify will only mean that she is permitted to select her weeks first by April 30<sup>th</sup>. Neither party will have the week of the 4<sup>th</sup> of July on consecutive years.

74. The court will allow Defendant-Father to have the children the entire 2021 spring vacation holiday to allow him to plan a trip with the children as a make up for the time

he lost, per the recommendations of Dr. Cretzmeyer and the Guardian ad Litem.

75. All other major holidays shall be as previously ordered from the June 12, 2017 Order and reiterated below:

(1) Christmas: shall be designated in two parts: Part 1 shall be from the day school lets out until 2:00 p.m. on December 25th. Part 2 shall be from 2:00 p.m. on December 25<sup>th</sup> until 6:00 p.m. the night before school resumes. Plaintiff-Mother shall have Part 2 in odd years and Part 1 in even years. Defendant-Father shall have Part 1 in odd years and Part 2 in even years.

(2) Easter/Spring Break: shall be designated in two parts: Part 1 shall be after school on the last day of school until Wednesday at 6:00 p.m. and Part 2 from Wednesday until 6:00 p.m. on the day before school resumes following the holiday. Plaintiff-Mother shall have Part 2 in even numbered years and Part 1 in odd numbered years. Defendant-Father shall have Part 2 in odd numbered years and Part 1 in even numbered years.

(3) Thanksgiving: In odd numbered years Plaintiff-Mother shall have from after school until school resumes following the holiday. In even numbered years Defendant-Father shall have from after school until school resumes following the holiday.

(4) Mother's Day/Father's Day: Plaintiff-Mother shall always have Mother's Day and Defendant-Father shall always have Father's Day. The day shall be from Sunday at 9:00 a.m. through Sunday at 6:00p.m.

(5) Halloween: Plaintiff-Mother shall have the children for Halloween in even numbered years and Defendant-Father shall have the children for Halloween in odd numbered years. Visitation shall be from after school until 9:00 p.m. or if this holiday falls on a weekend that is not in the parties' weekend rotation, from 5:00p.m. until 9:00 p.m.

76. Transportation: When the children are in school pickup and delivery, exchanges will be done there. If it is not a school exchange, then whoever is completing their time will deliver the children to the parent who is beginning their time. The party delivering will not get out of the car but will ensure that the children get inside the residence safely. The parties' spouses, significant others, or family members may assist in transportation.

77. Phone Policy: The phone policy as instituted by Dr. Cretzmeyer's therapeutic instruction of September 17, 2020, shall continue when the children are exercising their visitations with their father. Plaintiff-Mother will have a separate phone for communication with Defendant-Father when they are with her. All communications between the children and

Defendant-Father when with Plaintiff-Mother shall be conducted on the separate phone. All communications with Plaintiff-Mother when exercising time with Defendant-Father shall be conducted per Dr. Cretzmeyer's phone policy. The children may use their separate phones when at the mother's home as she deems appropriate. This policy will last until each child reaches the age of fourteen (14) at which time the child shall be allowed to bring and use their separate phones for chats with their friends, etc., but all communications with the parents shall continue to be through the designated phones as established by Dr. Cretzmeyer.

78. Counseling: As recommended by all the professionals, the children, and the parents need to take a month or so break from all the intense counseling. All are in agreement that, if counseling is needed for the children, they need a new, unbiased counselor, and Ms. Bogle (the current counselor) agrees to the same. Each party shall fully cooperate with any requests made of them by the new counselor. Payments to the new counselor shall continue as has been in use since the June 12, 2017 Order.

79. In regard to the co-parenting, Ms. Lucas has suggested the parties need to continue "cognitive behavioral therapy" after taking a break. The parties shall continue their co-parenting sessions with Ms. Lucas beginning the first of the New Year. They shall continue as long as Ms. Lucas deems necessary, but no longer than six (6) months unless both parties agree. The Court has no jurisdiction over the parties' spouses or significant others, but the parties should strongly encourage these individuals to participate as Ms. Lucas deems appropriate. Each party shall be responsible for the costs with Ms. Lucas as set out in Judge Morehead's August 28 Order.

80. Per Dr. Cretzmeyer, the parties' minor children are not in need of counseling at this time. Should the children require counseling, she recommends counseling with a counselor who is licensed in marriage and family therapy. Dr. Cretzmeyer was willing to furnish to the parties and the GAL three (3) references who would meet these criteria. She is to furnish these three (3) individuals to the attorneys and the GAL who shall confer and select on one, should the minor children be in need of counseling. If the parties cannot agree the GAL shall have the final decision-making authority on this issue.

81. Dr. Cretzmeyer does not see the need for the children to have separate, ongoing counseling themselves at this time. If need be, the children could be brought into some of the family sessions if necessary, or as an alternative would be that the children might be brought into a few of the sessions with Ms. Lucas and the parents.



82. The parties shall be ordered to comply with the parental conduct and restrictions as set out in the Co-parenting Agreement executed with Ms. Lucas and all of the previous restrictions as set out in the June 12, 2017 Order that are not in conflict with this Order. As stated previously, the Court does not have jurisdiction over Mr. Price or Ms. Neumann but the parties are requesting, and the Court will certainly look favorably upon, those individuals fully cooperating with the counseling and restrictions set out above.

83. All restraining orders shall be as previously ordered from the June 12, 2017 Order and reiterated below:

(1) The minor child should not be exposed to an immoral or illegal environment. Neither party shall abuse alcohol or drugs, or allow any third party to abuse alcohol or drugs in the presence of the minor children.

(2) Neither parent will make derogatory or disparaging remarks about the other party or members of the other party's family in the presence or earshot of the children, nor shall they allow and third parties to do so.

(3) Titles of "Mom" and "Dad," or their equivalents are will be used only to refer to the parties named in this agreement.

(4) Both parents can attend any and all of the children's extracurricular activities, and both parties will keep the other informed of such activities on a regular basis

(5) Each party shall keep the other informed of his or her current address and telephone number and each shall have reasonable telephone access to the children when he/she is with the other parent.

(6) The parties shall be restrained from having overnight paramours of a romantic nature when the children are in their custody

(7) The parties shall be restrained from harassing, threatening, harming, molesting, bothering, following, stalking, interfering with, telephoning, or in any way coming about or contacting each other in any way with the exception of information that is necessary regarding the children.

#### **CHILD SUPPORT:**

84. The Court has reviewed both parties' Financial Declarations and attempted to run the child support guidelines, taking into consideration the number of overnights Defendant-Father is to have with the children. The guidelines only take into consideration a combined gross monthly income of \$30,000.00. These parties are in excess of that. The June



12, 2017 Order does not mention incomes of the parties or how the child support was set. The court has no knowledge if this was an agreed amount or what. At that time Defendant-Father was getting one-half of the time which has been somewhat reduced at this time. The estimates the Court has run are somewhat less than the current \$2,500.00 per month he is paying.

85. The child support and the child dependency and any medical insurance paid on the children shall continue as previously ordered in the June 12, 2017 Order.

**ATTORNEY FEES AND COSTS:**

86. The Family Court is to use a two-step process in considering requests for attorney fees and costs. The Court must first determine if either side is entitled to an award, and if so, then an appropriate amount. The requesting party has the burden of proof by a preponderance of the evidence to establish both entitlement and the amount.

87. The case of E.D.M. v. T.A.M., 307 S.C. 471, 415 S.E. 2d 812 (1992) sets out the four entitlement factors the Court must consider in determining whether a requesting party is entitled to fees and costs;

1. The parties' ability to pay their own fee.
2. The beneficial results obtained by the attorney.
3. The parties' respective financial condition.
4. The effect of the fee on each party's standard of living.

The court will discuss each of these separately as they apply in this case.

(1). Parties Ability to Pay Their Own Fee: Both parties filed Financial Declarations. Plaintiff-Mother has a gross monthly income of \$3,533.00 and monthly expenses for herself, her children, and her husband. The Court has no information as to her husband's income. She has \$1,000.00 in savings, \$50,000.00 in savings or money markets and \$50,000.00 in a 401K. Per her Financial Declaration she withdrew \$50,000.00 shortly before the trial to pay for attorney fees.

Defendant-Father has a gross monthly income of \$31,895.00 and monthly expenses of \$22,053.16. He also has \$600,300.00 in retirement funds, \$166,000.00 in stocks, bonds, etc. He also has \$293,220.00 net value of real property. Therefore, it appears both parties have the ability to pay their own fees; Defendant-Father has a much better ability than the mother.

(2). The Parties' Respective Financial Conditions: Once again, looking at each party's

Financial Declaration, Defendant-Father has net assets totaling over \$1,000,000.00. Plaintiff-Mother has net assets of a little over \$100,000.00. Needless to say, Defendant-Father is in a much stronger financial position than the mother.

(3). The Effect of the Fee on Each Party's Standard of Living: The South Carolina Court of Appeals in the recent case of Couch v. Couch Opinion No. 5244 filed July 15, 2020 discusses the financial conditions of both parties as this Court has done above. They go on to state that an award of attorney fees against Defendant-Father may well have an effect on the father's standard of living, "requiring mother to pay her own fees would have a devastating impact on her standard of living (Emphasis added.)"

(4) Finally, the Beneficial Results to Plaintiff-Mother are Obvious. She received sole legal and physical custody in a contentiously litigated action, as well as sole decision-making authority.

88. Based on all of the above, I find that Plaintiff-Mother has met her burden of proof by a preponderance of the evidence that she is entitled to a contribution toward her attorney fees and costs.

89. The case of Glasscock v. Glasscock, 304 S.C. 158, 403 S.E. 2d 313, 315 (1991) sets out the six contribution factors the Court is to consider as to the amount of contribution toward the entitled party's attorney fees and costs. They are:

1. The nature, extent and difficulty of services rendered
2. The time necessarily devoted to the case
3. Counsel's professional standing
4. The contingency of compensation
5. The beneficial results obtained
6. The customary legal fees for similar services

In the Glasscock case cited above, the Supreme Court described these factors a little differently, saying that the Court should consider:

- 1.) The reasonableness of the hourly rate (which shall be determined according to (a) the professional standing of counsel; and (b) the customary legal fees for similar services.).
- 2.) The reasonableness of the hours billed (which shall be determined according to (a) the nature, extend and difficulty of the case; and (b) the time necessarily devoted to the case.). Glasscock v. Glasscock, 304 S.C. 158, 403 S.E. 2d 313, 315 (1991).

Marital Litigation in South Carolina substantive Law 4<sup>th</sup> Edition by Professor Emeritus Ray T. Stucky.

It is much easier for this Court to discuss the six Glasscock factors under the headings referred to immediately above.

a.) The reasonableness of the hourly rate: The mother's attorney charged an hourly rate of \$300.00 per hour. This is the same rate charged by the father's attorney. Mr. Stampfle has been practicing law for over eighteen (18) years, principally in the Family Court arena. He has represented numerous clients, was the attorney for the Horry County Guardian ad Litem Program for DSS cases and has an excellent reputation in Horry County. His hourly rate is commensurate with the rate charged by other Horry County Family Court lawyers with the same experience as him. Therefore, I find his hourly rate to be reasonable.

b.) The reasonableness of the hours billed: The Court next determines the reasonableness of the hours billed by looking at the nature, extent, and difficulty of the case and (b) the time necessarily devoted to the case. As is evidenced from the facts recited in this Order this was an extremely contentious case with numerous hearings, emergency hearings, etc. Depositions were still being taken a week before the trial; the custody evaluation was over one hundred (100) pages long; the notebook of Our Family Wizard was over 777 pages. The number of hours billed by the father's attorney were substantially more than the mother's attorney. His total attorney fees were over \$140,000.00 while the mother's fees were over \$85,000.00. Therefore, I find the hours billed by the mother's attorney for the nature, extent and difficulty of the case and the time necessarily devoted to this case to be very reasonable.

90. Based upon this analysis, I find that Defendant-Father shall be required to pay the total sum of \$6,993.35 for the Rule to Show Cause Action decided by Judge Bromell-Holmes from the hearing held on February 27, 2018. This shall be paid to Plaintiff-Mother's attorney by January 1, 2021.

91. I find Defendant-Father shall pay the sum of \$48,000.00 toward the mother's attorney fees and costs. This shall be paid at the rate of \$3,000.00 per month beginning February 1, 2021 and on the first of each month thereafter for a total of sixteen (16) months. Said payments are due on the first and past due on the 6<sup>th</sup>. The payments shall be made directly to Mr. Stampfle's office. Should any payment not be received by Mr. Stampfle by the

6<sup>th</sup> of the month he may accelerate the balance due and bring any action necessary for collection of the same.

92. I further find that in addition to the attorney fees and costs referred to and awarded above, Defendant-Father should pay all of Dr. Christopher's fees associated with the custody evaluation. Should there be any balance due on those fees, they shall be paid to Dr. Christopher within fifteen (15) days of the filing of this Order.

**GAL'S FEES AND COSTS:**

93. Section 63-3-850 (B) (2010) sets out the statutory compensation factors the Court must consider when setting the GAL's fees and costs:

*"A Guardian appointed by the Court is entitled to reasonable compensation subject to the review and approval of the Court. In determining the reasonableness of the fees and costs the Court must take into account.*

- (1.) The complexity of the issues before the Court;*
- (2.) The contentiousness of the litigation;*
- (3.) The time expended by the Guardian*
- (4.) The expenses reasonably incurred by the Guardian;*
- (5.) The financial ability of each party*
- (6.) Any other factors the Court considers necessary."*

This Order has already discussed these same factors above in its award of attorney fees to Plaintiff-Mother's attorney. Once again, this case was very complex and contentious. The Custody Evaluation was over 100 pages, there were 777 pages of emails exchanged on Our Family Wizard, setting up the co-parenting classes and reunification sessions with Ms. Lucas and Dr. Cretzmeyer respectively and then reading their reports, attending depositions, reading and responding to countless texts, (mostly from Defendant-Father), preparing his thorough report, and attending four and a half (4 ½) days of trial and participating in settlement negotiations. The Court has every reason to believe all of the above required a considerable amount of time and sees no reason to question the necessity of the time and expense given the litigation's difficulty and contentiousness. (Couch v. Couch cited above.)

94. I find that, the GAL's fees and costs of \$45,836.50 to be reasonable. I find no reason to reallocate the 75% to Defendant-Father and 25% to mother. The total amount to be paid by Defendant-Father is \$34,377.38 of which he has paid \$8,500.00, leaving a balance due of \$25,877.38. The total amount to be paid by Plaintiff-Mother is \$11,459.12 of which she has paid \$8,719.00, leaving a balance due of \$2,740.12.

95. I further find that Defendant-Father shall make payments to Mr. Hall of at least \$2,500.00 per month beginning January 1, 2021 and on the first of each month thereafter until paid in full. Should Defendant-Father be more than five (5) days late in any payment to Mr. Hall, he may declare the entire balance due and payable and bring any action necessary for collection of the same. Likewise, I find Plaintiff-Mother shall make payments of at least \$500.00 per month toward her balance beginning January 1, 2021 with the same requirements as to five (5) days late and acceleration of the balance due and any action necessary to collect the same.

**PROVISIONS NOT MODIFIED BY THIS ORDER:**

96. I find that, any and all prior provisions of the parties' Final Order of June 12, 2017 not herein modified or superseded shall remain in full force and effect.

97. I find that, based upon the above recited Findings of Fact and Conclusions of Law, it is therefore:

**ORDERED** that Plaintiff-Mother shall have sole custody of the parties' minor children as set forth above; and it is further

**ORDERED** that counseling between the parties and the children shall be conducted as set forth above; and it is further

**ORDERED** that Defendant-Father's visitation is as set forth above; and it is further

**ORDERED** that the parties are restrained as set forth above; and it is further

**ORDERED** that any term of the parties Final Order under 2016-DR-26-859 not modified by this Order shall remain in full force and affect; and it is further


**ORDERED** that Defendant-Father shall pay attorneys' fees to Plaintiff-Mother's counsel in the amount as set forth above; and it is further

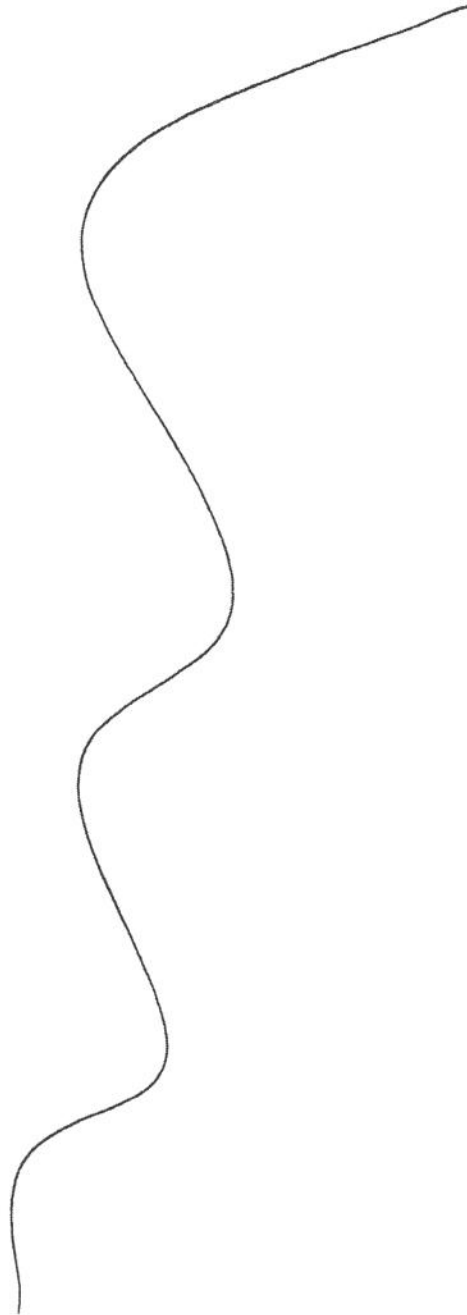
**ORDERED** that the Guardian *ad Litem* fees and costs shall be paid as set forth above.

**ORDERED, THAT A VIOLATION OF THIS ORDER SHALL BE CONSIDERED CONTEMPT OF COURT AND SHALL BE PUNISHABLE PURSUANT TO S.C. CODE ANNOTATED § 63-3-620 AND MAY RESULT IN A PUNISHMENT OF A \$1,500.00 FINE, PUBLIC SERVICE WORK OF 300 HOURS, IMPRISONMENT NOT TO EXCEED ONE (1) YEAR, OR ANY COMBINATION THEREOF.**

**IT IS SO ORDERED** this the 8<sup>th</sup> day of ~~December 2020~~ January 2021 in Marion, South Carolina.

Price v Gallman

  
Timothy H. Pogue  
Family Court Judge



Brent Russell Nicol,

Plaintiff,

vs.

Shanda Marie Nicol,

Defendant.

Judge Exhibit 5

JUDGMENT IN A  
FAMILY COURT CASE

Docket No. 2021-DR-26-01796

Submitted by: Angela D. Harrison, SC Bar No. 78403 PO Box 14737 Surfside Beach, SC 29587	Attorney for <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant <input checked="" type="checkbox"/> GAL
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DECISION BY COURT (check all that apply)

- This action came to trial, hearing or was resolved by consent and an order was rendered.
- This action has been dismissed pursuant to
  - Rule 12(b), SCRPC
  - Rule 12(a), SCRPC
  - Rule 43(k), SCRPC
  - Family Court Benchmarks
  - Other: \_\_\_\_\_

FILED  
 HORRY COUNTY  
 2021 OCT 1 P 12:45  
 REBECCA ELVIS  
 CLERK OF COURT  
 HORRY COUNTY, SC

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court:

Additional information for Clerk: \_\_\_\_\_

ORDER INFORMATION

- This is a  Temporary  Final order. If Final, does this order end the case?  Yes  No
- Support  is not ordered  is ordered, and it is to be paid  through the court.  directly to the CP.
- Case number under which support is paid if different from this one: \_\_\_\_\_
- This order involves the immediate  issuance  dismissal of a bench warrant, or  does not apply.
- The following motions are ended by this order (include motion filing date): \_\_\_\_\_
- This order adds or dismisses the following parties to this case:
- dismiss  add: \_\_\_\_\_  dismiss  add: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX/TRANSCRIPT OF JUDGMENT (§ 20-3-670(B)(1))		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information to enroll, indicate "N/A" in one of the boxes below.		
Judgment In Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount to be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the South Carolina Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: title abstractors and researchers should refer to the official court order for judgment details.

Jan B. Bromell Holmes  
Family Court Judge

4144  
Judge Code

September 27<sup>th</sup>, 2021  
Date

**FOR CLERK OF COURT OFFICE USE ONLY**

This judgment was entered on the \_\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on \_\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

Angela D. Harrison  
PO Box 14737  
Surfside Beach, SC 29587  
**ATTORNEY(S) FOR THE PLAINTIFF(S)**

Rhett D. Klok  
1002 Anna Knapp Blvd., Suite 103  
Mt. Pleasant, SC 29464  
**ATTORNEYS FOR THE DEFENDANT(S)**

**Court Reporter: Stacy L. Sheppard**

\_\_\_\_\_  
**CLERK OF COURT**

**Custodial Parent (if applicable):** \_\_\_\_\_





2. The Plaintiff and Defendant are husband and wife having been married on September 7, 2013, in Georgetown County, South Carolina.

3. Two (2) children were born as a result of this marriage, to wit: H.M.N. born 2015, and H.N. born 2018. The minor children have lived in Horry County, South Carolina, in excess of six (6) months prior to the commencement of this action.

4. I find that this Court has jurisdiction over the parties and subject matter and venue is proper in Horry County pursuant to South Carolina.

5. I find that based on the allegations contained in the parties' affidavits, it is necessary for a Guardian *ad Litem* to complete an initial investigation to inform the Court as to the allegations lodged by the parties. I find that Sandye Hicks is a fit and proper person to serve as Guardian *ad Litem* for the minor children and hereby appoint her as such. The parties shall each pay an initial retainer of \$2,500.00 to her no later than September 24, 2021. She shall complete an initial investigation within thirty (30) days of the date of this hearing and this matter shall be scheduled for a second temporary hearing for the Court to review the Guardian's Report.

6. The Guardian *ad Litem* shall recommend a new therapist with whom the minor children will attend counseling.

7. I find that this matter was scheduled for a 15-minute hearing; however, the Defendant submitted in excess of eight (8) pages of affidavits. Therefore, the Plaintiff shall be entitled to submit up to eight (8) additional pages of affidavits. These additional affidavits shall be filed by Plaintiff no later than September 24, 2021. Further, Defendant shall inform the Court by September 24, 2021, as to which 16-pages of affidavits <sup>she</sup> he wishes the Court review from <sup>her</sup> his temporary hearing package. part

8. Until such time as this matter is brought back before the Court after the Guardian's initial investigation, the parties shall share joint custody of the parties' minor children with neither parent being designated as primary custodial parent at this time.

9. Mother shall have custody of the minor children from 9:00 a.m. on the 1<sup>st</sup> day of each month until 9:00 a.m. on the fifteenth (15<sup>th</sup>) day of each month. Father shall have custody of the minor children from 9:00 a.m. on the fifteenth (15<sup>th</sup>) day of each month until 9:00 a.m. on the first (1<sup>st</sup>) day of the following month. This schedule shall commence at 5:00 p.m. on September 15, 2021, with Father's custodial period.

10. The party with custody of the minor children shall be entitled to exclusive use and possession of the marital home during that party's custodial periods. Neither party is entitled to

remove any furniture or other items of personal property from the home; however, each party shall be entitled to take with them any personal items necessary to live away from the home during their noncustodial periods. Both parties are restrained from placing any surveillance devices in or around the home when that party does not have use and possession of the marital home.

11. Father shall continue to pay the costs associated with maintenance of the marital home until this matter comes back before the Court.

12. The parties shall communicate solely through Our Family Wizard regarding matters related to the minor children and shall provide the Guardian *ad Litem* with professional access to their account.

13. The Parties agree they shall be subject to a “no adverse contact order” (NACO) which shall restrain the Parties from engaging, directly or indirectly, in any adverse conduct towards one another. This NACO shall permit the Parties to contact, associate and communicate with one another only so long as both Parties mutually consent to such contact, association or communication. The Parties acknowledge the purpose of this NACO is to both encourage and require civil contact and communication between them, and this NACO is not intended to trigger, implement or effect any provisions of the federal Title 18 USC §922(g)(8) or (g)(9), nor is the NACO intended to rise to the level of, or be considered, an order of protection as defined in the South Carolina Protection from Domestic Abuse statutes. Provided however, the Parties agree that willful violations of this NACO shall subject the offending party to an action for contempt of court.

14. Neither parent shall expose the children to or allow any third party to expose the child(ren) to:

- i. Any violent conduct;
- ii. A parent's or third party's excessive use of alcoholic beverages or other intoxicants or illegal drug use, or a knowing misuse of prescription drugs;
- iii. The use of vulgar, profane, demeaning or violent language in the presence of the child(ren) or within such proximity of the child(ren) that it would be reasonably known to the parent that the child could hear such remarks;
- iv. neither party shall make disparaging remarks about the other party in the presence of the child(ren) or within such proximity of the child(ren) that it would be reasonably known to the parent that the child(ren) could hear such remarks;
- v. neither party shall allow paramour to stay overnight while the children are in their respective custody;
- vi. neither party shall allow the minor child(ren) to call any other person mommy, daddy, or any derivation thereof;
- vii. neither party shall discuss this case in the presence of the child(ren) or within such proximity of the child(ren) that it would be reasonably known to the parent that the child(ren) could hear such remarks; and



15. The parties are restrained from selling, secreting, pledging, giving away, damaging, destroying, encumbering, or in any way disposing of any of the marital assets, pendente lite. Further, the parties are restrained from incurring any debts for which the other party may become liable.

16. All other issues shall be held in abeyance until further order of the Court or agreement of the parties.

### CONCLUSIONS OF LAW

1. This Court has jurisdiction of this matter and the parties. Venue is proper in Horry County, South Carolina.

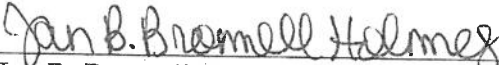
2. This Court has the authority to issue a Temporary Order pursuant to Rule 21 of the South Carolina Rules of Family Court.

3. This Order shall have no precedential value at a Final Hearing in this matter.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that:

1. All provisions contained herein are the Order of the Court and a willful violation shall be subject to the Court's contempt powers, which includes a \$1,500.00 fine, public work service of 300 hours, imprisonment of no more than one (1) year, or any combination thereof.

**AND IT IS SO ORDERED.**

  
Jan B. Bromell Holmes, Family Court Judge for the  
Fifteenth Judicial Circuit

September 27<sup>th</sup>, 2021  
Conway, South Carolina

**A WILLFUL VIOLATION OF THIS ORDER SHALL BE CONSIDERED CONTEMPT OF COURT AND SHALL BE PUNISHABLE PURSUANT TO S.C. CODE ANN. §63-3-620 (LAW CO-OP. 1976) AND MAY RESULT IN A PUNISHMENT OF A \$1,500.00 FINE, PUBLIC WORK SERVICE OF 300 HOURS, IMPRISONMENT NOT TO EXCEED ONE (1) YEAR, OR ANY COMBINATION THEREOF.**