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| IN THE INTEREST OF | § | IN THE DISTRICT COURT |
| J.H. AND A.H. | § | 53rd JUDICIAL DISTRICT |
| CHILDREN | § | TRAVIS COUNTY, TEXAS |

CHARGE OF THE COURT

Members of the Jury:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that follow, and reach a verdict.

You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. Rely on the Court Operations Officer to notify you if she receives a call for you on the emergency number she gave you.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

Here are the instructions for answering the questions.

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you

must follow all of my instructions.

4. Words in this Charge have their ordinary meaning unless I give a definition, which will be a proper legal definition.

5. All the answers are important. No one should say that any answer is not important.

6. Answer “yes” or “no” to all questions, unless the instruction for a particular question tells you otherwise. A “yes” answer must be based on a preponderance of the evidence. If you do not find that a preponderance of the evidence supports a “yes” answer, then answer “no.” When you answer a question that requires an answer other than “yes” or “no,” your answer must be based on a preponderance of the evidence. The term “preponderance of the evidence” means the greater weight of credible evidence presented in this case. A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

7. A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

8. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

9. Do not answer questions by drawing straws or by any method of chance.

10. Do not trade your answers. For example, do not say, “I will answer this question your way if you answer another question my way.”

11. To return a verdict, the **same** group of at least 10 of you must agree on each and every answer. You may **not** have one group of 10 jurors agree on one answer and a different group of 10 jurors agree on another answer.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties’ money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

INSTRUCTIONS AND DEFINITIONS

Best Interest of Child

The best interest of the child shall always be the primary consideration in determining which parent shall have the exclusive right to determine the primary residence of the child.

No Discrimination Based on Gender or Marital Status

In determining which parent should have the exclusive right to designate the primary residence of the child, you shall consider the qualifications of each parent without regard to the gender of the parent or the children and without regard to each parent's marital status.

QUESTION

Should the order of November 12, 2010 that designates CASSANDRA MEDRANO as the parent with the exclusive right to designate the primary residence of the children be modified to designate JONATHAN HORTMAN as the parent with that exclusive right?

To modify the order to change the designation, it must be proved that:

the circumstances of the children or of CASSANDRA MEDRANO or of JONATHAN HORTMAN have materially and substantially changed since November 12, 2010, and

that the appointment of JONATHAN HORTMAN as the conservator who has the exclusive right to designate the primary residence of the children in place of CASSANDRA MEDRANO would be in the best interest of the children.

Answer "Yes" or "No."

Answer: _____

When you go into the jury room to answer the questions, you must first choose a presiding juror.

The presiding juror has these duties:

- 1) preside over your deliberations, meaning manage the discussions, and see that you follow these instructions
- 2) write down the answers you agree on;
- 3) write down and give to the Court Operations Officer any questions you have for the judge without revealing any answers you have agreed on and without revealing any vote(s) taken in the jury room;
- 4) get the signatures for the verdict certificate; and
- 5) notify the Court Operations Officer that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

Instructions for Deliberating, Reaching a Verdict, & Signing the Verdict Certificate:

- 1) All jurors should participate in the jury's deliberation on every question.
- 2) To return a verdict, the **same** group of at least 10 of you must agree on each and every answer. You may **not** have one group of 10 jurors agree on one answer and a different group of 10 jurors agree on another answer.
- 3) Only those who agree on each and every answer should sign the verdict. A juror who agrees with the answer to some questions, but not all, should *not* sign the verdict.

Do you understand these instructions? If you do not, please tell me now.

Judge Presiding

Verdict Certificate

Those of us who have signed below agree to each and every answer.

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