

CAUSE NO. \_\_\_\_\_

IN THE MATTER OF  
THE MARRIAGE OF

LISA KIRKPATRICK MARTINEZ  
AND  
MICHAEL WILLIAM MARTINEZ

AND IN THE INTEREST OF  
ALEJANDRO LIAM MARTINEZ,  
A CHILD

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IN THE DISTRICT COURT

\_\_\_\_\_  
JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**PETITIONER'S SUPPORTING AFFIDAVIT**

Lisa Kirkpatrick Martinez appeared in person before me today and stated under oath:

"My name is Lisa Kirkpatrick Martinez. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I am the Petitioner in this case. On January 7, 1995, I married Michael William Martinez and we have one child, Alejandro Liam Martinez who was born on July 3, 1998. Alejandro Liam Martinez currently resides with me at 601 Redbud Trail, Austin, Texas 78748 and he has lived at that same address in the last five years. Until my separation from Michael William Martinez in October, 2002, my son, Alejandro Liam Martinez lived with me and his father. Michael William Martinez now resides at 2336 Douglas Street, Apt. 1522, Austin, Texas 78741.

I have not participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with Alejandro Liam Martinez.

I do not know of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions.

I do not know of any person not a party to the proceeding who has physical custody of Alejandro Liam Martinez or claims rights of legal custody or physical custody of, or visitation

**6. Dates of Marriage and Separation**

The parties were married on or about January 7, 1995 and ceased to live together as husband and wife on or about October, 2002.

**7. Grounds for Divorce**

The marriage has become insupportable because of discord or conflict of personalities between Petitioner and Respondent that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

**8. Children of the Marriage**

Petitioner and Respondent are parents of the following child of this marriage who is not under the continuing jurisdiction of any other court:

Name: **Alejandro Liam Martinez**

Birth date: June 3, 1998

There are no court-ordered conservatorships, court-ordered guardianships, or other court-ordered relationships affecting the child the subject of this suit.

Information required by section 152.209 of the Texas Family Code is provided in the attached affidavit.

No property of consequence is owned or possessed by the child the subject of this suit.

Petitioner and Respondent, on final hearing, should be appointed joint managing conservators, with all the rights and duties of a parent conservator.

Petitioner should be designated as the conservator who has the exclusive right to determine the primary residence of the child. Alternatively, the residence of the child should be restricted to Travis County and any county contiguous to it. Respondent should be ordered to make payments for the support of the child in the manner specified by the Court. Petitioner requests that the payments for the support of the child survive the death of Respondent and become the obligations of Respondent's estate.

**9. Division of Community Property**

Petitioner believes Petitioner and Respondent will enter into an agreement for the division of their estate. If such an agreement is made, Petitioner requests the Court to approve the agreement and divide their estate in a manner consistent with the agreement. If such an agreement is not made, Petitioner requests the Court to divide their estate in a manner that the Court deems just and right, as provided by law.

**10. Request for Change of Name**

Petitioner requests a change of name to Lisa Lynne Kirkpatrick.

**11. Statement on Alternative Dispute Resolution**

Petitioner has signed a statement on alternative dispute resolution, which is attached as Exhibit "A."

**12. Prayer**

Petitioner prays that citation and notice issue as required by law and that the Court grant a divorce and all other relief requested in this petition.

Petitioner prays that Petitioner's name be changed as requested above.

Petitioner prays for general relief.

Respectfully submitted.

THE LAW OFFICE OF MARGO A. AHERN

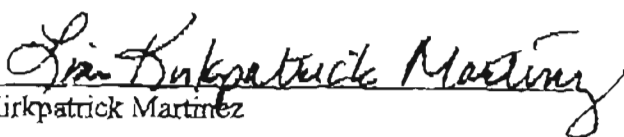
By: 

Margo A. Ahern  
State Bar No. 24026766  
309 W. Main, Ste. 113  
Round Rock, Texas 78664  
(512) 671-3100 telephone  
(512) 671-3102 fax

ATTORNEY FOR PETITIONER,  
LISA KIRKPATRICK MARTINEZ

STATEMENT ON ALTERNATIVE DISPUTE RESOLUTION

I AM AWARE THAT IT IS THE POLICY OF THE STATE OF TEXAS TO PROMOTE THE AMICABLE AND NONJUDICIAL SETTLEMENT OF DISPUTES INVOLVING CHILDREN AND FAMILIES. I AM AWARE OF ALTERNATIVE DISPUTE RESOLUTION METHODS INCLUDING MEDIATION. WHILE I RECOGNIZE THAT ALTERNATIVE DISPUTE RESOLUTION IS AN ALTERNATIVE TO AND NOT A SUBSTITUTE FOR A TRIAL AND THAT THIS CASE MAY BE TRIED IF IT IS NOT SETTLED, I REPRESENT TO THE COURT THAT I WILL ATTEMPT IN GOOD FAITH TO RESOLVE BEFORE FINAL TRIAL CONTESTED ISSUES IN THIS CASE BY ALTERNATIVE DISPUTE RESOLUTION WITHOUT THE NECESSITY OF COURT INTERVENTION.

  
\_\_\_\_\_  
Lisa Kirkpatrick Martinez

EXHIBIT

A

CAUSE NO. \_\_\_\_\_

IN THE MATTER OF  
THE MARRIAGE OF

LISA KIRKPATRICK MARTINEZ  
AND  
MICHAEL WILLIAM MARTINEZ

AND IN THE INTEREST OF  
ALEJANDRO LIAM MARTINEZ,  
A CHILD

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IN THE DISTRICT COURT

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JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**PETITIONER'S SUPPORTING AFFIDAVIT**

Lisa Kirkpatrick Martinez appeared in person before me today and stated under oath:

"My name is Lisa Kirkpatrick Martinez. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I am the Petitioner in this case. On January 7, 1995, I married Michael William Martinez and we have one child, Alejandro Liam Martinez who was born on July 3, 1998. Alejandro Liam Martinez currently resides with me at 601 Redbud Trail, Austin, Texas 78748 and he has lived at that same address in the last five years. Until my separation from Michael William Martinez in October, 2002, my son, Alejandro Liam Martinez lived with me and his father. Michael William Martinez now resides at 2336 Douglas Street, Apt. 1522, Austin, Texas 78741.

I have not participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with Alejandro Liam Martinez.

I do not know of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions.

I do not know of any person not a party to the proceeding who has physical custody of Alejandro Liam Martinez or claims rights of legal custody or physical custody of, or visitation

with, the Alejandro Liam Martinez."

Further Affiant sayeth not.

*Lisa Kirkpatrick Martinez*  
Lisa Kirkpatrick Martinez

SWORN TO AND SUBSCRIBED BEFORE ME this the 16<sup>th</sup> day of July, 2003

*Juanita Servin*  
Notary Public in and for the State of Texas  
My Commission Expires: 9-11-04



**ORIGINAL**

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TRAVIS COUNTY, TEXAS

signature indicating my approval of its terms, conditions, and contents.

"I request the Court not to enter any orders or judgment not signed by me or without my receiving prior written notice of the date, time, and place of any proceedings.

"I understand that I have a duty to notify the attorney for Petitioner if I change my address. I understand that, unless I notify the attorney for Petitioner of any such change in writing, any notices that I might otherwise be entitled to receive with regard to disposition of this proceeding will be forwarded to me at the address indicated below.

"I further state that the following information is correct and that my-

Mailing address is: 2336 Douglas Street Apt. 1522, Austin, Texas 78741

Telephone number is: (512) 445-4562

Social Security number is: [REDACTED]

Texas driver's license number is: [REDACTED]

"I further understand that I have a duty to notify the Court if my mailing address changes during this proceeding."

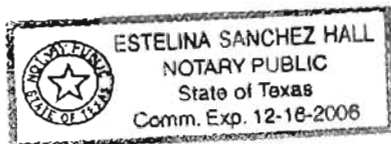
  
\_\_\_\_\_  
Michael William Martinez

SIGNED under oath before me on

October 18 2003

  
\_\_\_\_\_  
Notary Public, State of Texas

I, the notary public whose signature appears above, certify that I am not an attorney in this case.



Estelina Sanchez-Hall





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IV. JURY

A jury was waived, and questions of fact and of law were submitted to the Court.

V. AGREEMENT OF PARTIES

The Court finds that the parties have entered into a written agreement as contained in this decree by virtue of having approved this decree as to both form and substance. To the extent permitted by law, the parties stipulate the agreement is enforceable as a contract. The Court approves the agreement of the parties as contained in this Final Decree of Divorce.

VI. DIVORCE

IT IS ORDERED AND DECREED that Lisa Kirkpatrick Martinez, Petitioner, and Michael William Martinez, Respondent, are divorced and that the marriage between them is dissolved on the ground of insupportability.

VII. CHILD OF THE MARRIAGE

The Court finds that Petitioner and Respondent are the parents of the following child:

Name: Alejandro Liam Martinez

Sex: Male

Birth date: June 3, 1998

Home state: Texas

Social Security number: [REDACTED]

Driver's license number and issuing state: None

The Court finds no other children of the marriage are expected.

VIII. CONSERVATORSHIP

The Court, having considered the circumstances of the parents and of the child, finds that the following orders are in the best interest of the child.

IT IS ORDERED that Lisa Kirkpatrick Martinez and Michael William Martinez are appointed Joint Managing Conservators of the following child: Alejandro Liam Martinez.

IT IS ORDERED that, at all times, Lisa Kirkpatrick Martinez, as a parent joint managing

conservator, shall have the following rights:

1. the right to receive information from any other conservator of the child concerning the health, education, and welfare of the child;
2. the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the child;
3. the right of access to medical, dental, psychological, and educational records of the child;
4. the right to consult with a physician, dentist, or psychologist of the child;
5. the right to consult with school officials concerning the child's welfare and educational status, including school activities;
6. the right to attend school activities;
7. the right to be designated on the child's records as a person to be notified in case of an emergency;
8. the right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child; and
9. the right to manage the estate of the child to the extent the estate has been created by the parent or the parent's family.

IT IS ORDERED that, at all times, Michael William Martinez, as a parent joint managing conservator, shall have the following rights:

1. the right to receive information from any other conservator of the child concerning the health, education, and welfare of the child;
2. the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the child;
3. the right of access to medical, dental, psychological, and educational records of the child;
4. the right to consult with a physician, dentist, or psychologist of the child;
5. the right to consult with school officials concerning the child's welfare and educational status, including school activities;
6. the right to attend school activities;
7. the right to be designated on the child's records as a person to be notified in case of an emergency;
8. the right to consent to medical, dental, and surgical treatment during an emergency

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involving an immediate danger to the health and safety of the child; and

9. the right to manage the estate of the child to the extent the estate has been created by the parent or the parent's family.

IT IS ORDERED that, at all times, Lisa Kirkpatrick Martinez and Michael William Martinez, as parent joint managing conservators, shall each have the following duties:

1. the duty to inform the other conservator of the child in a timely manner of significant information concerning the health, education, and welfare of the child; and

2. the duty to inform the other conservator of the child if the conservator resides with for at least thirty days, marries, or intends to marry a person who the conservator knows is registered as a sex offender under chapter 62 of the Code of Criminal Procedure or is currently charged with an offense for which on conviction the person would be required to register under that chapter. IT IS ORDERED that this information shall be tendered in the form of a notice made as soon as practicable, but not later than the fortieth day after the date the conservator of the child begins to reside with the person or on the tenth day after the date the marriage occurs, as appropriate. IT IS ORDERED that the notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE PERSON FAILS TO PROVIDE THIS NOTICE.

IT IS ORDERED that, during her respective periods of possession, Lisa Kirkpatrick Martinez, as parent joint managing conservator, shall have the following rights and duties:

1. the duty of care, control, protection, and reasonable discipline of the child;
2. the duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
3. the right to consent for the child to medical and dental care not involving an invasive procedure; and
4. the right to direct the moral and religious training of the child.

IT IS ORDERED that, during his respective periods of possession, Michael William Martinez, as parent joint managing conservator, shall have the following rights and duties:

1. the duty of care, control, protection, and reasonable discipline of the child;
2. the duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
3. the right to consent for the child to medical and dental care not involving an invasive procedure; and
4. the right to direct the moral and religious training of the child.

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IT IS ORDERED that Lisa Kirkpatrick Martinez, as a parent joint managing conservator, shall have the following rights and duty:

1. the exclusive right to designate the primary residence of the child within Travis county and contiguous counties;
2. the independent right to consent to medical, dental, and surgical treatment involving invasive procedures and to consent to psychiatric and psychological treatment of the child;
3. the independent right to receive and give receipt for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child;
4. the independent right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;
5. the independent right to consent to marriage and to enlistment in the armed forces of the United States;
6. the independent right to make decisions concerning the child's education;
7. except as provided by section 264.0111 of the Texas Family Code, the independent right to the services and earnings of the child;
8. except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, the independent right to act as an agent of the child in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government; and
9. the independent duty to manage the estate of the child to the extent the estate has been created by community property or the joint property of the parents.

IT IS ORDERED that Michael William Martinez, as a parent joint managing conservator, shall have the following rights and duty:

1. the independent right to consent to medical, dental, and surgical treatment involving invasive procedures and to consent to psychiatric and psychological treatment of the child;
2. the independent right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;
3. the independent right to consent to marriage and to enlistment in the armed forces of the United States;
4. except as provided by section 264.0111 of the Texas Family Code, the independent right to the services and earnings of the child;
5. except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, the independent right to act as an agent of the child in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government;

and

6. the independent duty to manage the estate of the child to the extent the estate has been created by community property or the joint property of the parents.

The Court finds that, in accordance with section 153.001 of the Texas Family Code, it is the public policy of Texas to assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child, to provide a safe, stable, and nonviolent environment for the child, and to encourage parents to share in the rights and duties of raising their child after the parents have separated or dissolved their marriage. IT IS ORDERED that the primary residence of the child shall be Travis county and contiguous counties, and the parties shall not remove the child from Travis county and contiguous counties for the purpose of changing the primary residence of the child until modified by further order of the court of continuing jurisdiction or by written agreement signed by the parties and filed with the court. IT IS FURTHER ORDERED that Lisa Kirkpatrick Martinez shall have the exclusive right to designate the child's primary residence within Travis county and contiguous counties. IT IS ORDERED that this geographical restriction on the residence of the child shall be lifted if, at the time Lisa Kirkpatrick Martinez wishes to remove the child from Travis county and contiguous counties for the purpose of changing the primary residence of the child, Michael William Martinez does not reside in Travis county and contiguous counties.

IT IS ORDERED that either party is authorized to apply for a passport for the child, Alejandro Liam Martinez.

**IX. POSSESSION AND ACCESS**

**1. Standard Possession Order**

The Court finds that the following provisions of this Standard Possession Order are intended to and do comply with the requirements of Texas Family Code sections 153.311 through 153.317. IT IS ORDERED that each conservator shall comply with all terms and conditions of this Standard Possession Order. IT IS ORDERED that this Standard Possession Order is effective immediately and applies to all periods of possession occurring on and after the date the Court signs this Standard Possession Order. IT IS, THEREFORE, ORDERED:

(a) Definitions

1. In this Standard Possession Order "school" means the primary or secondary school in which the child is enrolled or, if the child is not enrolled in a primary or secondary school, the public school district in which the child primarily resides.

2. In this Standard Possession Order "child" includes each child, whether one or more, who is a subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

(b) Mutual Agreement or Specified Terms for Possession

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out in this Standard Possession Order.

(c) Parents Who Reside 100 Miles or Less Apart

Except as otherwise explicitly provided in this Standard Possession Order, when Michael William Martinez resides 100 miles or less from the primary residence of the child, Michael William Martinez shall have the right to possession of the child as follows:

1. Weekends - On weekends, beginning at 6:00 p.m., on the first, third, and fifth Friday of each month and ending at 6:00 p.m. on the following Sunday.

2. Weekend Possession Extended by a Holiday - Except as otherwise explicitly provided in this Standard Possession Order, if a weekend period of possession by Michael William Martinez begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at 6:00 p.m. on the Thursday immediately preceding the Friday holiday or school holiday or end at 6:00 p.m. on that Monday holiday or school holiday, as applicable.

3. Thursdays - On Thursday of each week during the regular school term, beginning at 6:00 p.m. and ending at 8:00 p.m.

4. Spring Break in Even-Numbered Years - In even-numbered years, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

5. Extended Summer Possession by Michael William Martinez -

With Written Notice by April 1 - If Michael William Martinez gives Lisa Kirkpatrick Martinez written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, Michael William Martinez

shall have possession of the child for thirty days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, as specified in the written notice. These periods of possession shall begin and end at 6:00 p.m.

Without Written Notice by April 1 - If Michael William Martinez does not give Lisa Kirkpatrick Martinez written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, Michael William Martinez shall have possession of the child for thirty consecutive days in that year beginning at 6:00 p.m. on July 1 and ending at 6:00 p.m. on July 31.

Notwithstanding the weekend and Thursday periods of possession ORDERED for Michael William Martinez, it is explicitly ORDERED that Lisa Kirkpatrick Martinez shall have a superior right of possession of the child as follows:

1. Spring Break in Odd-Numbered Years - In odd-numbered years, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

2. Summer Weekend Possession by Lisa Kirkpatrick Martinez - If Lisa Kirkpatrick Martinez gives Michael William Martinez written notice by April 15 of a year, Lisa Kirkpatrick Martinez shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of the extended summer possession by Michael William Martinez in that year, provided that Lisa Kirkpatrick Martinez picks up the child from Michael William Martinez and returns the child to that same place and that the weekend so designated does not interfere with Father's Day Weekend.

3. Extended Summer Possession by Lisa Kirkpatrick Martinez - If Lisa Kirkpatrick Martinez gives Michael William Martinez written notice by April 15 of a year or gives Michael William Martinez fourteen days' written notice on or after April 16 of a year, Lisa Kirkpatrick Martinez may designate one weekend beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession by Michael William Martinez shall not take place in that year, provided that the weekend so designated does not interfere with Michael William Martinez's period or periods of extended summer possession or with Father's Day Weekend.

(d) Parents Who Reside More Than 100 Miles Apart

Except as otherwise explicitly provided in this Standard Possession Order, when Michael William Martinez resides more than 100 miles from the residence of the child, Michael William Martinez shall have the right to possession of the child as follows:

1. Weekends - Unless Michael William Martinez elects the alternative period of weekend possession described in the next paragraph, Michael William

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Martinez shall have the right to possession of the child on weekends, beginning at 6:00 p.m., on the first, third, and fifth Friday of each month and ending at 6:00 p.m. on the following Sunday. Except as otherwise explicitly provided in this Standard Possession Order, if such a weekend period of possession by Michael William Martinez begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at 6:00 p.m. on the Thursday immediately preceding the Friday holiday or school holiday or end at 6:00 p.m. on that Monday holiday or school holiday, as applicable.

Alternate Weekend Possession - In lieu of the weekend possession described in the foregoing paragraph, Michael William Martinez shall have the right to possession of the child not more than one weekend per month of Michael William Martinez's choice beginning at 6:00 p.m. on the day school recesses for the weekend and ending at 6:00 p.m. on the day before school resumes after the weekend. Except as otherwise explicitly provided in this Standard Possession Order, if such a weekend period of possession by Michael William Martinez begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at 6:00 p.m. on the Thursday immediately preceding the Friday holiday or school holiday or end at 6:00 p.m. on that Monday holiday or school holiday, as applicable. Michael William Martinez may elect an option for this alternative period of weekend possession by giving written notice to Lisa Kirkpatrick Martinez within ninety days after the parties begin to reside more than 100 miles apart. If Michael William Martinez makes this election, Michael William Martinez shall give Lisa Kirkpatrick Martinez fourteen days' written or telephonic notice preceding a designated weekend. The weekends chosen shall not conflict with the provisions regarding Christmas, Thanksgiving, the child's birthday, and Mother's Day Weekend below.

2. Spring Break in All Years - Every year, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

3. Extended Summer Possession by Michael William Martinez -

With Written Notice by April 1 - If Michael William Martinez gives Lisa Kirkpatrick Martinez written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, Michael William Martinez shall have possession of the child for forty-two days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, as specified in the written notice. These periods of possession shall begin and end at 6:00 p.m.

Without Written Notice by April 1 - If Michael William Martinez does not give Lisa Kirkpatrick Martinez written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, Michael William

Martinez shall have possession of the child for forty-two consecutive days beginning at 6:00 p.m. on June 15 and ending at 6:00 p.m. on July 27 of that year.

Notwithstanding the weekend periods of possession ORDERED for Michael William Martinez, it is explicitly ORDERED that Lisa Kirkpatrick Martinez shall have a superior right of possession of the child as follows:

1. Summer Weekend Possession by Lisa Kirkpatrick Martinez - If Lisa Kirkpatrick Martinez gives Michael William Martinez written notice by April 15 of a year, Lisa Kirkpatrick Martinez shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of possession by Michael William Martinez during Michael William Martinez's extended summer possession in that year, provided that if a period of possession by Michael William Martinez in that year exceeds thirty days, Lisa Kirkpatrick Martinez may have possession of the child under the terms of this provision on any two nonconsecutive weekends during that period and provided that Lisa Kirkpatrick Martinez picks up the child from Michael William Martinez and returns the child to that same place and that the weekend so designated does not interfere with Father's Day Weekend.

2. Extended Summer Possession by Lisa Kirkpatrick Martinez - If Lisa Kirkpatrick Martinez gives Michael William Martinez written notice by April 15 of a year, Lisa Kirkpatrick Martinez may designate twenty-one days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, during which Michael William Martinez shall not have possession of the child, provided that the period or periods so designated do not interfere with Michael William Martinez's period or periods of extended summer possession or with Father's Day Weekend.

(e) Holidays Unaffected by Distance

Notwithstanding the weekend and Thursday periods of possession of Michael William Martinez, Lisa Kirkpatrick Martinez and Michael William Martinez shall have the right to possession of the child as follows:

1. Christmas Holidays in Even-Numbered Years - In even-numbered years, Michael William Martinez shall have the right to possession of the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 26, and Lisa Kirkpatrick Martinez shall have the right to possession of the child beginning at noon on December 26 and ending at 6:00 p.m. on the day before school resumes after that Christmas school vacation.

2. Christmas Holidays in Odd-Numbered Years - In odd-numbered years, Lisa Kirkpatrick Martinez shall have the right to possession of the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 26, and Michael William Martinez shall have the right to possession of the child beginning at noon on December 26 and ending at 6:00 p.m. on the day before the child's school resumes after that Christmas

school vacation.

3. Thanksgiving in Odd-Numbered Years - In odd-numbered years, Michael William Martinez shall have the right to possession of the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Thanksgiving holiday and ending at 6:00 p.m. on the Sunday following Thanksgiving.

4. Thanksgiving in Even-Numbered Years - In even-numbered years, Lisa Kirkpatrick Martinez shall have the right to possession of the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Thanksgiving holiday and ending at 6:00 p.m. on the Sunday following Thanksgiving.

5. Child's Birthday - If a parent is not otherwise entitled under this Standard Possession Order to present possession of the child on the child's birthday, that parent shall have possession of the child beginning at 6:00 p.m. and ending at 8:00 p.m. on that day, provided that that parent picks up the child from the other parent's residence and returns the child to that same place.

6. Father's Day Weekend - Michael William Martinez shall have the right to possession of the child each year, beginning at 6:00 p.m. on the Friday preceding Father's Day and ending at 6:00 p.m. on Father's Day, provided that if Michael William Martinez is not otherwise entitled under this Standard Possession Order to present possession of the child, he shall pick up the child from Lisa Kirkpatrick Martinez's residence and return the child to that same place.

7. Mother's Day Weekend - Lisa Kirkpatrick Martinez shall have the right to possession of the child each year, beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending at 6:00 p.m. on Mother's Day, provided that if Lisa Kirkpatrick Martinez is not otherwise entitled under this Standard Possession Order to present possession of the child, she shall pick up the child from Michael William Martinez's residence and return the child to that same place.

(f) Undesignated Periods of Possession

Lisa Kirkpatrick Martinez shall have the right of possession of the child at all other times not specifically designated in this Standard Possession Order for Michael William Martinez.

(g) General Terms and Conditions

Except as otherwise explicitly provided in this Standard Possession Order, the terms and conditions of possession of the child that apply regardless of the distance between the residence of a parent and the child are as follows:

1. Surrender of Child by Lisa Kirkpatrick Martinez - Lisa Kirkpatrick Martinez is ORDERED to surrender the child to Michael William Martinez at the beginning of each period of Michael William Martinez's possession at the residence of Lisa Kirkpatrick Martinez.

2. Return of Child by Michael William Martinez - Michael William Martinez is ORDERED to return the child to the residence of Lisa Kirkpatrick

Martinez at the end of each period of possession. However, it is ORDERED that, if Lisa Kirkpatrick Martinez and Michael William Martinez live in the same county at the time of rendition of this order, Michael William Martinez's county of residence remains the same after rendition of this order, and Lisa Kirkpatrick Martinez's county of residence changes, effective on the date of the change of residence by Lisa Kirkpatrick Martinez. Michael William Martinez shall surrender the child to Lisa Kirkpatrick Martinez at the residence of Michael William Martinez at the end of each period of possession.

3. Surrender of Child by Michael William Martinez - Michael William Martinez is ORDERED to surrender the child to Lisa Kirkpatrick Martinez, if the child is in Michael William Martinez's possession or subject to Michael William Martinez's control, at the beginning of each period of Lisa Kirkpatrick Martinez's exclusive periods of possession, at the place designated in this Standard Possession Order.

4. Return of Child by Lisa Kirkpatrick Martinez - Lisa Kirkpatrick Martinez is ORDERED to return the child to Michael William Martinez, if Michael William Martinez is entitled to possession of the child, at the end of each of Lisa Kirkpatrick Martinez's exclusive periods of possession, at the place designated in this Standard Possession Order.

5. Personal Effects - Each conservator is ORDERED to return with the child the personal effects that the child brought at the beginning of the period of possession.

6. Designation of Competent Adult - Each conservator may designate any competent adult to pick up and return the child, as applicable. IT IS ORDERED that a conservator or a designated competent adult be present when the child is picked up or returned.

7. Inability to Exercise Possession - Each conservator is ORDERED to give notice to the person in possession of the child on each occasion that the conservator will be unable to exercise that conservator's right of possession for any specified period.

8. Written Notice - Written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due.

This concludes the Standard Possession Order.

2. Duration

The periods of possession ordered above apply to the child the subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

3. Termination of Orders

The provisions of this decree relating to conservatorship, possession, or access

terminate on the remarriage of Lisa Kirkpatrick Martinez to Michael William Martinez unless a nonparent or agency has been appointed conservator of the child under chapter 153 of the Texas Family Code.

4. Notice to Peace Officers

**NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE TERMS OF CHILD CUSTODY SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CLAIM, CIVIL OR OTHERWISE, REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THE ORDER THAT RELATE TO CHILD CUSTODY. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS \$10,000.**

**X. ALTERNATIVE DISPUTE RESOLUTION**

It is agreed that before setting any hearing or initiating discovery in a suit for modification of the terms and conditions of conservatorship, possession, or support of the child, except in an emergency, the parties shall mediate the controversy in good faith. This requirement does not apply to actions brought to enforce this decree or to enforce any subsequent modifications of this decree. It is agreed that the party wishing to modify the terms and conditions of conservatorship, possession, or support of the child shall give written notice to the other party of a desire to mediate the controversy. If, within ten days after receipt of the written notice, the parties cannot agree on a mediator or the other party does not agree to attend mediation or fails to attend a scheduled mediation of the controversy, the party desiring modification shall be released from the obligation

to mediate and shall be free to file suit for modification.

**XI. CHILD SUPPORT**

IT IS ORDERED that Michael William Martinez is obligated to pay and shall pay to Lisa Kirkpatrick Martinez child support of \$500.00 per month, with the first payment being due and payable on November 1, 2003 and a like payment being due and payable on the first day of each month thereafter until the first month following the date of the earliest occurrence of one of the events specified below:

1. the child reaches the age of eighteen years, provided that the periodic child support payments shall continue to be due and paid until the end of the month in which the child graduates from high school if the child is:

a. enrolled:

- 1) under Chapter 25, Education Code, in an accredited secondary school in a program leading toward a high school diploma, the periodic child support payments shall continue to be due and paid until the end of the month in which the child graduates from high school;
- 2) under Section 130.008, Education Code, in courses for joint high school and junior college credit; or
- 3) on a full-time basis in a private secondary school in a program leading toward a high school diploma; and

b. complying with:

- 1) the minimum attendance requirements of Subchapter C, Chapter 25, Education Code; or
- 2) the minimum attendance requirements imposed by the school in which the child is enrolled, if the child is enrolled in a private secondary school:

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2. the child marries;
3. the child dies; or
4. the child's disabilities are otherwise removed for general purposes.

Withholding from Earnings

IT IS ORDERED that any employer of Michael William Martinez shall be ordered to withhold from earnings for child support from the disposable earnings of Michael William Martinez for the support of Alejandro Liam Martinez.

IT IS FURTHER ORDERED that all amounts withheld from the disposable earnings of Michael William Martinez by the employer and paid in accordance with the order to that employer shall constitute a credit against the child support obligation. Payment of the full amount of child support ordered paid by this decree through the means of withholding from earnings shall discharge the child support obligation. If the amount withheld from earnings and credited against the child support obligation is less than 100 percent of the amount ordered to be paid by this decree, the balance due remains an obligation of Michael William Martinez, and it is hereby ORDERED that Michael William Martinez pay the balance due directly to the state disbursement unit specified below.

On this date the Court authorized the issuance of an Order Notice to Withhold Income for Child Support.

Payment

IT IS ORDERED that all payments shall be made through the Texas Child Support Disbursement Unit at P.O. Box 659791, San Antonio, Texas 78265-9791, and thereafter promptly remitted to Lisa Kirkpatrick Martinez for the support of the child. IT IS ORDERED that each party shall pay, when due, all fees charged to that party by the agency through which child support is paid.

Change of Employment

IT IS FURTHER ORDERED that Michael William Martinez shall notify this Court and Lisa Kirkpatrick Martinez by U.S. certified mail, return receipt requested, of any change of address and

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of any termination of employment. This notice shall be given no later than seven days after the change of address or the termination of employment. This notice or a subsequent notice shall also provide the current address of Michael William Martinez and the name and address of his current employer, whenever that information becomes available.

Clerk's Duties

IT IS ORDERED that, on the request of a prosecuting attorney, the title IV-D agency, the friend of the Court, a domestic relations office, Lisa Kirkpatrick Martinez, Michael William Martinez, or an attorney representing Lisa Kirkpatrick Martinez or Michael William Martinez, the clerk of this Court shall cause a certified copy of the Order/Notice to Withhold Income for Child Support to be delivered to any employer.

Suspension of Withholding from Earnings

The Court finds that the parties have agreed that no order to withhold from earnings for child support should be delivered to any employer of Michael William Martinez as long as no delinquency or other violation of this child support order occurs. For the purpose of this provision, a delinquency has occurred if Michael William Martinez has been in arrears for an amount due for more than thirty days or the amount of the arrearages equals or is greater than the amount due for a one-month period. If a delinquency or other violation occurs, the clerk shall deliver the order to withhold earnings as provided above.

ACCORDINGLY, IT IS ORDERED that, as long as no delinquency or other violation of this child support order occurs, all payments shall be made through the Texas Child Support Disbursement Unit at P.O. Box 659791, San Antonio, Texas 78265-9791 and thereafter promptly remitted to Lisa Kirkpatrick Martinez for the support of the child. If a delinquency or other violation occurs, all payments shall be made in accordance with the order to withhold earnings as provided above.

**XII. HEALTH CARE**

IT IS ORDERED that medical support shall be provided for the child as follows:



1. Michael William Martinez's Responsibility - It is the intent and purpose of this decree that Michael William Martinez shall, at all times, provide medical support for the child as additional child support. IT IS THEREFORE ORDERED that, as additional child support, Michael William Martinez shall provide medical support for the parties' child, for as long as child support is payable under the terms of this decree, as set out herein.

2. Definitions - "Health insurance" means insurance coverage that provides basic health-care services, including usual physician services, office visits, hospitalization, and laboratory, X-ray, and emergency services, and may be provided in the form of an indemnity insurance contract or plan, a preferred provider organization or plan, a health maintenance organization, or any combination thereof.

"Reasonable cost" means the cost of a health insurance premium that does not exceed 10 percent of the responsible parent's net income in a month.

3. Insurance through Michael William Martinez's Employment, Union, Trade Association, or Other Organization - The Court finds that the child is currently covered on a health insurance policy through Lisa Kirkpatrick Martinez' employment on the date of entry of this decree and that health insurance is available for the child through Michael William Martinez's employment or membership in a union, trade association, or other organization at a reasonable cost as of January 1, 2004. IT IS ORDERED that Michael William Martinez shall as of January 1, 2004 have the child covered on a health insurance plan available for the child through his employment or membership in a union, trade association, or other organization. IT IS FURTHER ORDERED that Michael William Martinez shall, at his sole cost and expense, keep and maintain in full force and effect the same or equivalent health insurance coverage for the child for as long after January 1, 2004 as it is offered by his employer, union, trade association, or other organization. If his employer, union, trade association, or other organization subsequently changes health insurance benefits or carriers, Michael William Martinez is ORDERED to obtain and maintain the same or equivalent health insurance coverage for the benefit of the child through the successor company or through such other health

insurance plan as is available through other employment, union, trade association, or other organization or other insurance provider.

Insurance through Lisa Kirkpatrick Martinez's Employment, Union, Trade Association, or Other Organization - If health insurance for the child ceases to be available through Michael William Martinez's employer, union, trade association, or other organization but is available at a reasonable cost through Lisa Kirkpatrick Martinez's employer or other organization, Lisa Kirkpatrick Martinez is ORDERED to have the child covered on her health insurance and Michael William Martinez is ORDERED to pay Lisa Kirkpatrick Martinez at her last known address the cost of insuring the child on Lisa Kirkpatrick Martinez's health insurance plan, beginning on the first day of the month following the date Michael William Martinez first receives written notice of the amount of the premium from Lisa Kirkpatrick Martinez. Accompanying the first such written notification and any subsequent notifications informing of a change in the premium amount. Lisa Kirkpatrick Martinez is ORDERED to provide Michael William Martinez with documentation from her employer, union, trade association, or other organization of the cost to Lisa Kirkpatrick Martinez of providing coverage for the child.

4. Conversion of Policy - IT IS ORDERED that if the party through whose employment or membership in a union, trade association, or other organization health insurance has been provided for the child is leaving that employment, union, trade association, or other organization or for any other reason health insurance will not be available for the child through the employment or membership in a union, trade association, or other organization of either party at a reasonable cost, the party leaving employment or losing coverage shall, within ten days of termination of his or her employment or coverage, convert the policy to individual coverage for the child in an amount equal to or exceeding the coverage at the time his or her employment or coverage is terminated. Further, if that health insurance was available through Lisa Kirkpatrick Martinez's employment or membership in a union, trade association, or other organization, Michael William Martinez shall reimburse Lisa Kirkpatrick Martinez for the cost of the converted policy as follows: Michael

William Martinez is ORDERED to pay to Lisa Kirkpatrick Martinez at Lisa Kirkpatrick Martinez's last known address the cost of insuring the child under the converted policy, on the first day of each month after Michael William Martinez first receives written notice of the premium from Lisa Kirkpatrick Martinez for payment. Accompanying the first such written notification and any subsequent notifications informing of a change in the premium amount, Lisa Kirkpatrick Martinez is ORDERED to provide Michael William Martinez with documentation from the carrier of the cost to Lisa Kirkpatrick Martinez of providing coverage for the child.

5. If Policy Not Convertible - If the health insurance policy covering the child is not convertible at a reasonable cost and if no health insurance is available for the child through the employment or membership in a union, trade association, or other organization of either party at a reasonable cost, IT IS ORDERED that Michael William Martinez shall purchase and maintain, at his sole cost and expense, health insurance coverage for the child in an amount that is reasonably equivalent to the prior health coverage. Michael William Martinez is ORDERED to provide verification of the purchase of the insurance to Lisa Kirkpatrick Martinez at her last known address, including the insurance certificate number and the plan summary, no later than 10 days following the issuance of the policy.

6. Claim Forms - Except as provided in paragraph 8 below, the party who is not carrying the health insurance policy covering the child is ORDERED to submit to the party carrying the policy, within ten days of receiving them, any and all forms, receipts, bills, and statements reflecting the health-care expenses the party not carrying the policy incurs on behalf of the child.

The party who is carrying the health insurance policy covering the child is ORDERED to submit all forms required by the insurance company for payment or reimbursement of health-care expenses incurred by either party on behalf of the child to the insurance carrier within ten days of that party's receiving any form, receipt, bill, or statement reflecting the expenses.

7. Constructive Trust for Payments Received - IT IS ORDERED that any insurance payments received by a party from the health insurance carrier as reimbursement for health-care

expenses incurred by or on behalf of the child shall belong to the party who incurred and paid those expenses. IT IS FURTHER ORDERED that the party receiving the insurance payments is designated a constructive trustee to receive any insurance checks or payments for health-care expenses incurred and paid by the other party, and the party carrying the policy shall endorse and forward the checks or payments, along with any explanation of benefits received, to the other party within three days of receiving them.

8. Filing by Party Not Carrying Insurance - In accordance with article 3.51-13 of the Texas Insurance Code, IT IS ORDERED that the party who is not carrying the health insurance policy covering the child may, at that party's option, file directly with the insurance carrier with whom coverage is provided for the benefit of the child any claims for health-care expenses, including, but not limited to, medical, hospitalization, and dental costs and receive payments directly from the insurance company.

9. Secondary Coverage - IT IS ORDERED that nothing in this decree shall prevent either party from providing secondary health insurance coverage for the child at that party's sole cost and expense. IT IS FURTHER ORDERED that if a party provides secondary health insurance coverage for the child, both parties shall cooperate fully with regard to the handling and filing of claims with the insurance carrier providing the coverage in order to maximize the benefits available to the child and to ensure that the party who pays for health-care expenses for the child is reimbursed for the payment from both carriers to the fullest extent possible.

10. Compliance with Insurance Company Requirements - Each party is ORDERED to conform to all requirements imposed by the terms and conditions of the policy of health insurance covering the child in order to assure maximum reimbursement or direct payment by the insurance company of the incurred health-care expense, including but not limited to requirements for advance notice to carrier, second opinions, and the like. Each party is ORDERED to attempt to use "preferred providers," or services within the health maintenance organization, if applicable; however, this provision shall not apply if emergency care is required. Disallowance of the bill by a health insurer

shall not excuse the obligation of either party to make payment; however, if a bill is disallowed or the benefit reduced because of the failure of a party to follow procedures or requirements of the carrier, IT IS ORDERED that the party failing to follow the carrier's procedures or requirements shall be wholly responsible for the increased portion of that bill.

IT IS FURTHER ORDERED that no surgical procedure, other than in an emergency or those covered by insurance, shall be performed on the child unless the parent consenting to surgery has first consulted with at least two medical doctors, both of whom state an opinion that the surgery is medically necessary. IT IS FURTHER ORDERED that a parent who fails to obtain the required medical opinions before consent to surgery on the child shall be wholly responsible for all medical and hospital expense incurred in connection therewith.

If health insurance coverage for the child is provided through a health maintenance organization (HMO) or preferred provider organization (PPO), the parties are ORDERED to use health-care providers who are employed by the HMO or approved by the PPO whenever feasible. If health-care expenses are incurred by using that HMO or PPO plan, Lisa Kirkpatrick Martinez is ORDERED to pay 50 percent and Michael William Martinez is ORDERED to pay 50 percent of all reasonable and necessary health-care expenses not paid by insurance and incurred by or on behalf of the child, including, without limitation, any copayments for office visits or prescription drugs, the yearly deductible, if any, and medical, surgical, prescription drug, mental health-care services, dental, eye care, ophthalmological, and orthodontic charges, for as long as child support is payable under the terms of this decree. If a party incurs health-care expenses for a child by using the services of health-care providers not employed by the HMO or approved by the PPO, except in an emergency, without the written agreement of the other party, the party incurring the services is ORDERED to pay 100 percent and the other party is ORDERED to pay 0 percent of all reasonable and necessary health-care expenses not paid by insurance and incurred by or on behalf of the child, as set out above. If a party incurs health-care expenses for a child by using the services of health-care providers not employed by the HMO or approved by the PPO in an emergency or with the written agreement of

the other party, the party incurring the services is ORDERED to pay 50 percent and the other party is ORDERED to pay 50 percent of all reasonable and necessary health-care expenses not paid by insurance and incurred by or on behalf of the child, as set out above.

If the child is enrolled in a health-care plan that is not an HMO or a PPO, Lisa Kirkpatrick Martinez is ORDERED to pay 50 percent and Michael William Martinez is ORDERED to pay 50 percent of all reasonable and necessary health-care expenses not paid by insurance and incurred by or on behalf of the child, including, without limitation, the yearly deductible, if any, and medical, surgical, prescription drug, mental health-care services, dental, eye care, ophthalmological, and orthodontic charges, for as long as child support is payable under the terms of this decree.

11. Payment of Uninsured Expenses - IT IS ORDERED that the party who pays for a health-care expense on behalf of the child shall submit to the other party, within ten days of receiving them, all forms, receipts, bills, and explanations of benefits paid reflecting the uninsured portion of the health-care expenses the paying party incurs on behalf of the child. IT IS FURTHER ORDERED that, within ten days after the nonpaying party receives the explanation of benefits stating benefits paid, that party shall pay his or her share of the uninsured portion of the health-care expenses either by paying the health-care provider directly or by reimbursing the paying party for any advance payment exceeding the paying party's share of the expenses.

12. Exclusions - The provisions above concerning uninsured expenses shall not be interpreted to include expenses for travel to and from the health-care provider or for nonprescription medication.

13. Reasonableness of Charges - IT IS ORDERED that reasonableness of the charges for health-care expenses shall be presumed on presentation of the bill to a party and that disallowance of the bill by a health insurer shall not excuse that party's obligation to make payment or reimbursement as otherwise provided herein.

14. Information Required - IT IS ORDERED that a party providing health insurance shall furnish to the other party and the child support registry the following information no later than the

thirtieth day after the date the notice of the rendition of this decree is received:

- (a) the Social Security number of the party providing insurance;
- (b) the name and address of the employer of the party providing insurance;
- (c) whether the employer is self-insured or has health insurance available;
- (d) proof that health insurance has been provided for the child; and
- (e) the name of the health insurance carrier, the number of the policy, a copy of the policy and schedule of benefits, a health insurance membership card, claim forms, and any other information necessary to submit a claim or, if the employer is self-insured, a copy of the schedule of benefits, a membership card, claim forms, and any other information necessary to submit a claim.

IT IS FURTHER ORDERED that any party carrying health insurance on the child shall furnish to the other party a copy of any renewals or changes to the policy no later than the fifteenth day after the renewal or change is received.

IT IS FURTHER ORDERED that a party providing health insurance shall provide to the other party and the child support registry any additional information regarding health insurance coverage that becomes available to the party providing insurance. IT IS FURTHER ORDERED that the information shall be provided no later than the fifteenth day after the date the information is received.

15. Termination or Lapse of Insurance - If the health insurance coverage for the child lapses or terminates, the party who is providing the insurance is ORDERED to notify the other party no later than the fifteenth day after the date of termination or lapse. If additional health insurance is available or becomes available at a reasonable cost to Michael William Martinez for the child, Michael William Martinez is ORDERED to notify Lisa Kirkpatrick Martinez and the child support registry no later than the fifteenth day after the date the insurance becomes available and to enroll the child in a health insurance plan at the next available enrollment period.

16. Place of Transmittal - IT IS ORDERED that all bills, invoices, statements, claims, explanations of benefits, insurance policies, medical insurance identification cards, other documents,

and written notices, as well as payments, required to be transmitted by one party to the other under the health-care coverage and health insurance provisions of this decree shall be transmitted by the sending party to the residence of the receiving party.

17. WARNING - A PARENT ORDERED TO PROVIDE HEALTH INSURANCE OR TO PAY THE OTHER PARENT ADDITIONAL CHILD SUPPORT FOR THE COST OF HEALTH INSURANCE WHO FAILS TO DO SO IS LIABLE FOR NECESSARY MEDICAL EXPENSES OF THE CHILD, WITHOUT REGARD TO WHETHER THE EXPENSES WOULD HAVE BEEN PAID IF HEALTH INSURANCE HAD BEEN PROVIDED, AND FOR THE COST OF HEALTH INSURANCE PREMIUMS OR CONTRIBUTIONS, IF ANY, PAID ON BEHALF OF THE CHILD.

**XIII. MISCELLANEOUS CHILD SUPPORT PROVISIONS**

No Credit for Informal Payments

IT IS ORDERED that the child support as prescribed in this decree shall be exclusively discharged in the manner ordered and that any direct payments made by Michael William Martinez to Lisa Kirkpatrick Martinez or any expenditures incurred by Michael William Martinez during Michael William Martinez's periods of possession of or access to the child, as prescribed in this decree, for food, clothing, gifts, travel, shelter, or entertainment are deemed in addition to and not in lieu of the support ordered in this decree.

Life Insurance

As additional child support, IT IS ORDERED that Michael William Martinez shall purchase and, as long as child support is payable under the terms of this decree, maintain in full force and effect at Michael William Martinez's sole cost and expense a life insurance policy insuring the life of Michael William Martinez, naming Lisa Kirkpatrick Martinez primary beneficiary as trustee for the benefit of the child that on Michael William Martinez's death will pay to Lisa Kirkpatrick Martinez an amount not less than ~~\$80,000.00~~ <sup>\$75,000.00</sup>. Michael William Martinez is ORDERED, within thirty days after receiving written request, to furnish written proof from the life insurance company

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MAF



confirming the coverage required under this decree. ★

*MAE*

Support as Obligation of Estate

IT IS ORDERED that the provisions for child support in this decree shall be an obligation of the estate of Michael William Martinez and shall not terminate on the death of Michael William Martinez. Payments received for the benefit of the child from the Social Security Administration, Department of Veterans Affairs, other governmental agency, or life insurance shall be a credit against this obligation.

Termination of Orders on Remarriage of Parties

The provisions of this decree relating to current child support terminate on the remarriage of Lisa Kirkpatrick Martinez to Michael William Martinez unless a nonparent or agency has been appointed conservator of the child under chapter 153 of the Texas Family Code. An obligation to pay child support under this decree does not terminate on the death of Lisa Kirkpatrick Martinez but continues as an obligation to Alejandro Liam Martinez.

XIV. MEDICAL NOTIFICATION

Each party is ORDERED to inform the other party within twenty-four hours of any medical condition of the child requiring surgical intervention, hospitalization, or both.

XV. INFORMATION REGARDING PARTIES

The information required for each party by section 105.006(a) of the Texas Family Code is as follows:

Name: Lisa Kirkpatrick Martinez

Social Security number: [REDACTED]

Driver's license number: [REDACTED]

Issuing state: Texas

Current residence address: 601 Redbud Trail, Austin, Texas 78748

Mailing address: 601 Redbud Trail, Austin, Texas 78748

Home telephone number: (512)292-7718

Name of employer: St. Edwards University

Address of employment: 3001 S. Congress, Austin, Texas 78704

Work telephone number: (512) 448-8408

Name: Michael William Martinez

Social Security number: [REDACTED]

Driver's license number: [REDACTED]

Issuing state: Texas

★ The \$75,000.00 shall be calculated based on \$500 per month as child support so long as child support is ordered to be paid by this order. At the death of Michael Martinez and in the event at the remainder of child support due to be paid under this order calculated by multiplying 500 the number of months of child support still remaining, is less than \$75,000, the amount of child support still due shall be paid to Lisa Martinez. *MAE*

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x (cont'd) child and the remainder of the 75,000 shall be paid to Mr. & Mrs. Martinez's named second beneficiary.

MAF  
Lee  
MAF

Current residence address: 2336 Douglas Street, Apt. 1522, Austin, Texas 78741  
Mailing address: 2336 Douglas Street, Apt. 1522, Austin, Texas 78741  
Home telephone number: (512) 445-4562  
Name of employer: City of Austin  
Address of employment: 1201 Webberville Road, Austin, Texas 78721  
Work telephone number: (512) 926-6701

EACH PERSON WHO IS A PARTY TO THIS ORDER IS ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY OF ANY CHANGE IN THE PARTY'S CURRENT RESIDENCE ADDRESS, MAILING ADDRESS, HOME TELEPHONE NUMBER, NAME OF EMPLOYER, ADDRESS OF EMPLOYMENT, DRIVER'S LICENSE NUMBER, AND WORK TELEPHONE NUMBER. THE PARTY IS ORDERED TO GIVE NOTICE OF AN INTENDED CHANGE IN ANY OF THE REQUIRED INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY ON OR BEFORE THE 60TH DAY BEFORE THE INTENDED CHANGE. IF THE PARTY DOES NOT KNOW OR COULD NOT HAVE KNOWN OF THE CHANGE IN SUFFICIENT TIME TO PROVIDE 60-DAY NOTICE, THE PARTY IS ORDERED TO GIVE NOTICE OF THE CHANGE ON OR BEFORE THE FIFTH DAY AFTER THE DATE THAT THE PARTY KNOWS OF THE CHANGE.

THE DUTY TO FURNISH THIS INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY CONTINUES AS LONG AS ANY PERSON, BY VIRTUE OF THIS ORDER, IS UNDER AN OBLIGATION TO PAY CHILD SUPPORT OR ENTITLED TO POSSESSION OF OR ACCESS TO A CHILD.

FAILURE BY A PARTY TO OBEY THE ORDER OF THIS COURT TO PROVIDE EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY WITH THE CHANGE IN THE REQUIRED INFORMATION MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S

FEES AND COURT COSTS.

Notice shall be given to the other party by delivering a copy of the notice to the party by registered or certified mail, return receipt requested. Notice shall be given to the Court by delivering a copy of the notice either in person to the clerk of this Court or by registered or certified mail addressed to the clerk a Travis County Clerk's Office, Attention Family Law, P.O. 1748, Austin, Texas 78767. Notice shall be given to the state case registry by mailing a copy of the notice to State Case Registry, P.O. Box 12017, Austin, Texas 78711-2017.

WARNINGS TO PARTIES: FAILURE TO OBEY A COURT ORDER FOR CHILD SUPPORT OR FOR POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

FAILURE OF A PARTY TO MAKE A CHILD SUPPORT PAYMENT TO THE PLACE AND IN THE MANNER REQUIRED BY A COURT ORDER MAY RESULT IN THE PARTY'S NOT RECEIVING CREDIT FOR MAKING THE PAYMENT.

FAILURE OF A PARTY TO PAY CHILD SUPPORT DOES NOT JUSTIFY DENYING THAT PARTY COURT-ORDERED POSSESSION OF OR ACCESS TO A CHILD. REFUSAL BY A PARTY TO ALLOW POSSESSION OF OR ACCESS TO A CHILD DOES NOT JUSTIFY FAILURE TO PAY COURT-ORDERED CHILD SUPPORT TO THAT PARTY.

**XVI. DIVISION OF MARITAL ESTATE**

The Court finds that the following is a just and right division of the parties' marital estate, having due regard for the rights of each party and the child of the marriage.

Property to Husband

IT IS ORDERED AND DECREED that the husband, Michael William Martinez, is awarded the following as his sole and separate property, and the wife is divested of all right, title, interest, and

claim in and to that property:

H-1. All sums of cash in the possession of the husband or subject to his sole control, including funds on deposit, together with accrued but unpaid interest, in banks, savings institutions, or other financial institutions, which accounts stand in the husband's sole name or from which the husband has the sole right to withdraw funds or which are subject to the husband's sole control.

H-2. The sums, whether matured or unmatured, accrued or unaccrued, vested or otherwise, together with all increases thereof, the proceeds therefrom, and any other rights related to any profit-sharing plan, retirement plan, Keogh plan, pension plan, employee stock option plan, 401(k) plan, employee savings plan, accrued unpaid bonuses, disability plan, or other benefits existing by reason of the husband's past, present, or future employment.

H-3. The 2001 Jeep Cherokee Sport motor vehicle, vehicle identification number 1J4FT48S91L584424, together with all prepaid insurance, keys, and title documents.

H-4. \$20,000.00 payable by Lisa Kirkpatrick Martinez to Michael William Martinez by cash, cashier's check, or money order within 30 days from the date of the completion of the refinance by Lisa Kirkpatrick Martinez of the following real property located at 601 Redbud Trail, Austin, Texas 78748 (see legal description attached hereto as Exhibit "A" and made a part hereof).

Property to Wife

IT IS ORDERED AND DECREED that the wife, Lisa Kirkpatrick Martinez, is awarded the following as her sole and separate property, and the husband is divested of all right, title, interest, and claim in and to that property:

W-1. The following real property, including but not limited to any escrow funds, prepaid insurance, utility deposits, keys, house plans, home security access and code, garage door opener, warranties and service contracts, and title and closing documents:

.See legal description attached hereto as Exhibit "A" and made a part hereof.

Also known as 601 Redbud Trail, Austin, Texas 78748.

W-2. All sums of cash in the possession of the wife or subject to her sole control, including

funds on deposit, together with accrued but unpaid interest, in banks, savings institutions, or other financial institutions, which accounts stand in the wife's sole name or from which the wife has the sole right to withdraw funds or which are subject to the wife's sole control.

W-3. The sums, whether matured or unmatured, accrued or unaccrued, vested or otherwise, together with all increases thereof, the proceeds therefrom, and any other rights related to any profit-sharing plan, retirement plan, Keogh plan, pension plan, employee stock option plan, 401(k) plan, employee savings plan, accrued unpaid bonuses, disability plan, or other benefits existing by reason of the wife's past, present, or future employment.

W-4. The 1995 Toyota 4 Runner motor vehicle, vehicle identification number JT3VN29V2S0064730, together with all prepaid insurance, keys, and title documents.

#### Division of Debt

##### Debts to Husband

IT IS ORDERED AND DECREED that the husband, Michael William Martinez, shall pay, as a part of the division of the estate of the parties, and shall indemnify and hold the wife and her property harmless from any failure to so discharge, these items:

H-1. The balance due, including principal, interest, and all other charges, in the approximate amount of \$11,500.00 on the promissory note payable to Texas Credit Union and given as part of the purchase price of and secured by a lien on the 2001 Jeep Cherokee Sport motor vehicle awarded to husband.

H-2. Any and all debts, charges, liabilities, and other obligations incurred solely by the husband from and after October 1, 2002 unless express provision is made in this decree to the contrary.

##### Debts to Wife

IT IS ORDERED AND DECREED that the wife, Lisa Kirkpatrick Martinez, shall pay, as a part of the division of the estate of the parties, and shall indemnify and hold the husband and his property harmless from any failure to so discharge, these items:

W-1. The balance due, including principal, interest, tax, and insurance escrow, on the promissory note executed by Lisa Kirkpatrick Martinez and Michael William Martinez, in the original principal sum of \$149,900.00, dated May 29, 1998, payable to Chase Mortgage (originally payable to Temple-Inland Mortgage Corporation), and secured by deed of trust on the real property awarded in this decree to the wife, which is recorded at Volume 13197, page 2075, Travis County, Texas.

W-2. Any and all debts, charges, liabilities, and other obligations incurred solely by the wife from and after October 1, 2002 unless express provision is made in this decree to the contrary.

W-3. All encumbrances, ad valorem taxes, liens, assessments, or other charges due or to become due on the real and personal property awarded to the wife in this decree unless express provision is made in this decree to the contrary.

Notice

IT IS ORDERED AND DECREED that each party shall send to the other party, within three days of its receipt, a copy of any correspondence from a creditor or taxing authority concerning any potential liability of the other party.

Attorney's Fees

To effect an equitable division of the estate of the parties and as a part of the division, and for services rendered in connection with conservatorship and support of the child, each party shall be responsible for his or her own attorney's fees, expenses, and costs incurred as a result of legal representation in this case.

Liability for Federal Income Taxes for Prior Year

IT IS ORDERED AND DECREED that Lisa Kirkpatrick Martinez and Michael William Martinez shall be equally responsible for all federal income tax liabilities of the parties from the date of marriage through December 31, 2002, and each party shall timely pay 50 percent of any deficiencies, assessments, penalties, or interest due thereon and shall indemnify and hold the other

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party and his or her property harmless from 50 percent of such liabilities unless such additional tax, penalty, and/or interest resulted from a party's omission of taxable income or claim of erroneous deductions. In such case, the portion of the tax, penalty, and/or interest relating to the omitted income or claims of erroneous deductions shall be paid by the party who earned the omitted income or proffered the claim for an erroneous deduction. The parties agree that nothing contained herein shall be construed as or is intended as a waiver of any rights that a party has under the "Innocent Spouse" provisions of the Internal Revenue Code.

Treatment/Allocation of Community Income for Year of Divorce

IT IS ORDERED AND DECREED that, for the calendar year 2003, each party shall file an individual income tax return in accordance with the Internal Revenue Code.

IT IS ORDERED AND DECREED that for calendar year 2003, each party shall indemnify and hold the other party and his or her property harmless from any tax liability associated with the reporting party's individual tax return for that year unless the parties have agreed to allocate their tax liability in a manner different from that reflected on their returns.

IT IS ORDERED AND DECREED that each party shall furnish such information to the other party as is requested to prepare federal income tax returns for 2003 within thirty days of receipt of a written request for the information, and in no event shall the available information be exchanged later than March 1, 2004. As requested information becomes available after that date, it shall be provided within ten days of receipt.

IT IS ORDERED AND DECREED that all payments made to the other party in accordance with the allocation provisions for payment of federal income taxes contained in this Final Decree of Divorce are not deemed income to the party receiving those payments but are part of the property division and necessary for a just and right division of the parties' estate.

**XVII. TRANSFER AND DELIVERY OF PROPERTY**

Michael William Martinez is ORDERED to appear at the Travis County Courthouse on October 29, 2003 at 2:30 p.m. to execute, have acknowledged, and deliver to Margo Ahern Fox the

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Special Warranty Deed. This decree shall serve as a muniment of title to transfer ownership of all property awarded to any party in this Final Decree of Divorce.

**XVIII. CHANGE OF PETITIONER'S NAME**

IT IS ORDERED AND DECREED that Lisa Kirkpatrick Martinez's name is changed to Lisa Lynne Kirkpatrick.

**XIX. COURT COSTS**

IT IS ORDERED AND DECREED that costs of court are to be borne by the party who incurred them.

**XX. DISCHARGE FROM DISCOVERY RETENTION REQUIREMENT**

IT IS ORDERED AND DECREED that the parties and their respective attorneys are discharged from the requirement of keeping and storing the documents produced in this case in accordance with rule 191.4(d) of the Texas Rules of Civil Procedure.

**XXI. DECREE ACKNOWLEDGMENT**

Petitioner, Lisa Kirkpatrick Martinez, and Respondent, Michael William Martinez, each acknowledge that before signing this Final Decree of Divorce they have read this Final Decree of Divorce fully and completely, have had the opportunity to ask any questions regarding the same, and fully understand that the contents of this Final Decree of Divorce constitute a full and complete resolution of this case. Petitioner and Respondent acknowledge that they have voluntarily affixed their signatures to this Final Decree of Divorce, believing this agreement to be a just and right division of the marital debt and assets, and state that they have not signed by virtue of any coercion, any duress, or any agreement other than those specifically set forth in this Final Decree of Divorce.

**XXII. INDEMNIFICATION**

Each party represents and warrants that he or she has not incurred any outstanding debt, obligation, or other liability on which the other party is or may be liable, other than those described in this decree. Each party agrees and it is ORDERED that if any claim, action, or proceeding is hereafter initiated seeking to hold the party not assuming a debt, an obligation, a liability, an act, or

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IT IS ORDERED that the indemnifying party will reimburse the indemnified party, on demand, for any payment made by the indemnified party at any time after the entry of the divorce decree to satisfy a judgment of any court of competent jurisdiction or in accordance with a bona fide compromise or settlement of claims, demands, or actions for any damages to which this indemnity relates.

The parties agree and it is ORDERED that each party will give the other party prompt written notice of any litigation threatened or instituted against either party that might constitute the basis of a claim for indemnity under this decree.

**XXIII. CLARIFYING ORDERS**

Without affecting the finality of this Final Decree of Divorce, this Court expressly reserves the right to make orders necessary to clarify and enforce this decree.

**XXIV. RELIEF NOT GRANTED**

IT IS ORDERED AND DECREED that all relief requested in this case and not expressly granted is denied. This is a final judgment, for which let execution and all writs and processes necessary to enforce this judgment issue. This judgment finally disposes of all claims and all parties and is appealable.

DATE OF JUDGMENT

SIGNED on October 29, 2005.

  
JUDGE PRESIDING

APPROVED AS TO FORM ONLY:

Margo Ahern Fox  
Law Office of Margo Ahern Fox  
309 West Main Street, Suite 113  
Round Rock, Texas 78664

By: Margo Ahern Fox  
Margo Ahern Fox  
Attorney for Petitioner  
State Bar No. 24026766

APPROVED AND CONSENTED TO  
AS TO BOTH FORM AND SUBSTANCE:

Lisa Kirkpatrick Martinez  
Lisa Kirkpatrick Martinez, Petitioner

Michael Williams Martinez  
Michael Williams Martinez, Respondent

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1. S 79°-38'-47" E 99.91 feet to a 1/2" diameter iron pin found;
2. S 79°-48'-40" E 99.97 feet to a 1/2" diameter iron pin found;
3. S 79°-49'-19" E 100.00 feet to the Point-of-Beginning.

As Surveyed By: \_\_\_\_\_

DATA Law