

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Case Type: Dissolution with Children

In Re the Marriage of:

Andrew Thomas Conboy,

Court File No.: 19AV-FA-22-3264

Petitioner,

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
ORDER FOR JUDGMENT
AND JUDGMENT AND DECREE**

and

Kirsten Colleen Conboy,

Respondent.

This matter came on for a Court Trial before the Honorable David Knutson, Judge of District Court, on March 5, 2024, at the Dakota County Judicial Center, at 1560 West Highway 55, in Hastings, Minnesota.

Respondent, Kirsten Colleen Conboy (“Mother” or “Wife”), was present and represented by her counsel, Laurie Mack-Wagner, Esq. and Calen E. King, Esq., of Mack & Santana Law Offices, P.C., 1850 Fifth Street Towers, 150 South Fifth Street, in Minneapolis, Minnesota 55402.

Petitioner, Andrew Thomas Conboy (“Father” or “Husband”), did not appear for the Court Trial in this matter.

The Court issued its Notice of Hearing on September 13, 2023, setting the Court Trial on for March 5, 2024. An Order was also issued following the Pretrial and Motion Hearing on September 14, 2023, which confirmed the Court Trial date for this matter on March 5, 2024, at 9:00 a.m. A second Pretrial Hearing was held on December 19, 2023, where both parties appeared. On December 21, 2023, the Court issued its Family Pretrial Order which included a detailed

scheduling order for all pretrial deadlines in advance of the trial, including the Court Trial for March 5, 2024. A separate Notice of Hearing also was filed and sent to Petitioner with the March 5, 2024, Court Trial date. On December 26, 2023, the Court issued an Order Regarding Remote or In-Person Appearance in response to Father's request to attend the March 5, 2024, 9:00 a.m. Court Trial remotely. The Court denied the request stating that the situation described by Father did not constitute exceptional circumstances and the Court Trial required all parties to appear in person when testimony and evidence is presented. The Court further stated that, "March 5, 2024 is the scheduled court date for the parties Court Trial regarding all outstanding issues in their dissolution case. All parties and any witnesses must be present for the entire trial." Father was therefore ordered to appear at the proceeding on March 5, 2024, in person, which applied to all future proceedings in his case and to all parties in this case.

Father emailed the Court on January 22, 2024, in response to an email to him from the Court's clerk on January 17, 2022, advising Father that the Court issued the December 26, 2023 order denying remote appearances in this matter. On March 5, 2024, Father did not appear for the Court Trial. Father did not file a witness list nor an exhibit list in accordance with the requirements of the Order Following Pretrial and Motion hearing dated September 14, 2023. Father was provided with numerous notices of the scheduled Court Trial on March 5, 2024. Therefore the Court proceeded with the Court Trial without Father present.

As a result of Father failing to appear, the Court proceeded pursuant to Rule 307 (a) of the General Rules of Practice, Family Court Procedures, which states, "[f]ailure to appear at the scheduled final hearing may result in ... striking the nonappearing party's pleadings and the hearing of the matter as a default, ... without further notice to the defaulting party."

Mother testified at the trial in this matter on March 5, 2024. Mother also offered all her exhibits to be admitted into evidence. The Court received all of Mother's exhibits into evidence.

Therefore, based upon all of the evidence presented, the files, records and proceedings herein, the Court makes the following:

FINDINGS OF FACT:

1. **PARTIES.** The true and correct names, addresses, birth dates, ages and social security numbers of the Parties are:

Petitioner:

Name: Andrew Thomas Conboy
Also known as: N/A
Former Names: N/A
Address: 15174 Dupont Path
Apple Valley, MN 55124
Birth date and age: May 16, 1988; age 35
Social Security Number: See Confidential Information

Respondent:

Name: Kirsten Colleen Conboy
Also known as: N/A
Former Names: Kirsten Colleen Czeck
Address: 10225 Brent Avenue
Inver Grove Heights, MN 55077
Birth date and age: June 11, 1990; age 33
Social Security Number: See Confidential Information

The Petitioner is also referred to as “Husband” or “Father” and the Respondent is also referred to as “Wife” or “Mother” in this decree.

2. **REPRESENTATION.** Father is not represented in these proceedings and is a self-represented litigant. Mother is represented in these proceedings by: Laurie Mack-Wagner, Esq. and Calen E. King, Esq., of Mack & Santana Law Offices, P.C., 1850 Fifth Street Towers, 150 South Fifth Street, Minneapolis, Minnesota 55402.

3. **MARRIAGE.** The parties were married on June 27, 2017, in the City of Shakopee, County of Scott, State of Minnesota and ever since that date have been, and now are, husband and wife.

4. **RESIDENCE.** For more than 180 days prior to commencement of this proceeding, the Parties were residents of Dakota County.

5. **SEPARATE PROCEEDING.** No separate proceeding for dissolution or legal separation is pending in any court in this state or elsewhere.

6. **IRRETRIEVABLE BREAKDOWN.** There has been an irretrievable breakdown of the marriage relationship of the Parties hereto pursuant to Minnesota Statute § 518.06, and there is no reasonable prospect for reconciliation. The parties have been separated since July 6, 2022.

7. **ARMED FORCES.** Neither Party is a member of any branch of the military service or armed forces of the United States, and neither Party is entitled to relief under the Servicemembers' Civil Relief Act 50 U.S.C. App. § 501, et. seq.

8. **PUBLIC ASSISTANCE.** At times during these proceedings, Mother received public assistance in the form of SNAP benefits for herself and the minor children. Mother served the County with a copy of her Answer and Counterpetition upon the Dakota County Attorney's office on June 8, 2023, as set forth in the Affidavit of Service filed that same date. Dakota County has not intervened in this action.

9. **CHILDREN.** The Parties have four (4) children born of this relationship with the two older children being born before the marriage relationship and the two younger children being born during marriage relationship. Father signed a Recognition of Parentage of the two older children, and there is no dispute that Father is the father of all four children. The four (4) children subject to this action are:

Miller Grace Conboy, born July 26, 2014, age 9;
Madison Colleen Conboy, born March 8, 2016, age 8;
Colette Isabella Conboy, born January 8, 2019, age 5; and
Quinn Adeline Conboy, born May 20, 2020, age 3.

The Parties and minor children are not under the jurisdiction of juvenile court in this state or elsewhere.

10. **PREGNANT/NON-JOINT CHILDREN.** Mother is not presently pregnant. There are no non-joint children of either party.

11. **DOMESTIC ABUSE ORDER FOR PROTECTION.** The Dakota County District Court granted an Order for Protection in Court File Number: 19AV-FA-22-2348 for the benefit of the Wife that prohibited Husband from contacting Wife. The OFP was issued on October 12, 2022, and expired on October 12, 2023. Wife filed a motion requesting an extension or subsequent OFP that was heard on April 29, 2024 and was granted for a period of 15 years.

12. **CUSTODY AND PARENTING TIME.** The determination of the issue of legal and physical custody is based on the consideration of the best interest standards set forth in Minnesota Statute Section 518.17.

A. Background and Procedural History.

The parties met in 2013 in Minnesota. Shortly after the parties began their relationship, they moved to Wales where Father played professional hockey and where their first child, Miller, was conceived in October 2013. During Mother's pregnancy with Miller, the parties lived in

various places including Wales, St. Louis, MO; Boise, ID; and Minnesota. Miller was born in July 2014. The parties moved to New York for Father's hockey career. Mother testified that when the parties lived in New York starting in October 2014, Father was released from hockey due to excessive fighting. Mother testified she started to see a change in Father's behavior and submitted evidence that, at one point, Father was suspended for twenty games for excessive fighting in January 2015. Mother primarily cared for Miller while Father played hockey.

After the parties moved back to Minnesota in 2015, their second daughter, Madison, was born in 2016. Mother was the primary caregiver for the children. The parties were married on June 27, 2017. The younger two children, Colette and Quinn, were born in 2019 and 2020 respectively. Father's hockey career deteriorated, and he began working at Thomson Reuters as an Event Planner. Mother was a homemaker and the primary caregiver for all four children. Father started to exhibit concerning behavior that accelerated the marital problems during this time. Mother attempted to separate a couple of times, but ultimately struggled with what to do, and Mother finally separated from Father on July 6, 2022.

Father served Mother with the Summons and Petition for Dissolution of Marriage on or before January 9, 2023. The case was filed on December 7, 2022. Mother served her Answer and Counter-Petition on February 22, 2023. The Initial Case Management Conference ("ICMC") took place on February 22, 2023. After the ICMC took place, two pretrial hearings were held on June 14, 2023, and September 13, 2023. A Pretrial Order was issued by the Court on September 14, 2023, setting the trial for March 5, 2024, along with discovery and trial deadlines. Discovery was conducted by Mother serving Interrogatories, Requests for Production of Documents, and a Rule 35 Demand upon Father on May 5, 2023. However, Father exhibited a complete lack of responsiveness to Mother's discovery requests, ultimately resulting in an Order compelling Father to respond to Mother's discovery requests. At the time of trial, Father had not responded to any discovery. On June 28, 2023, the Court issued an *ex parte* order granting Mother temporary sole legal and sole physical custody and suspending all parenting time for Father.

After a hearing on July 11, 2023, wherein Father had representation, the Court issued a Temporary Order on July 25, 2023, among other orders, granting Mother temporary sole legal and sole physical custody, ordering parenting time for Father in a safety center identified by Mother and paid for by Father, restricting Father from the children's school, First Baptist School in Rosemount, Minnesota, ordering Father to delete any and all social media posts that contain videos or photos of the parties' minor children, and ordering a GAL to make recommendations on both temporary and permanent custody and parenting time. The Court also ordered Father to within 10 days to submit to a 12-panel hair follicle drug test and instructing the lab to provide Mother's attorney with a copy of the results and to comply with Mother's discovery requests to Father. Despite Mother selecting a safety center with availability for parenting time for Father and providing that information through counsel, Father never followed through with his supervised parenting time, and as of trial, Father had not had any parenting time since prior to the *ex parte* order issued on June 28, 2023. Father did not provide any discovery responses despite being ordered to do so, and Father did not provide any drug test results as ordered.

The Court notes that on August 23, 2023, Father filed affirmative motions to be heard on September 13, 2023, to modify and/or vacate provisions of the temporary order but then did not

appear at the September 13, 2023 hearing. Father also filed a motion on December 22, 2023, ultimately set for hearing on January 16, 2024, for relief regarding a warrant that was issued against him, requests regarding the homestead, and requests regarding custody, but then Father did not appear.

Guardian ad Litem Report. A Guardian ad Litem report was completed in this matter by Jesse Buggs from the Minnesota Guardian ad Litem Board. Mr. Buggs started his evaluation in the summer of 2023, and submitted his report on December 1, 2023. The report was submitted over three months before the start of trial in this matter which recommended that Mother have sole legal and sole physical custody of the parties' minor children. Mr. Buggs testified regarding his communications with Father during his investigation. The areas of concerns noted on the custody evaluation were concerns about Father's mental health and behavior issues as well as Father's refusal to participate in the GAL's investigation. Mr. Buggs testified that Father did not cooperate in the evaluation and that Father ultimately sent Mr. Buggs a notice to cease and desist. Mr. Buggs testified that he interviewed all four children at Mother's home, and that on October 4, 2023, he interviewed Miller and Madison at their school separately. Mr. Buggs testified that his efforts to get Father's mental health records were unsuccessful.

Mr. Buggs testified as to his recommendations that prior to Father having any contact with the children, he should undergo a seven-panel hair follicle test as well as medical and psychological evaluations. He also testified that he did not recommend that even supervised parenting time should occur at this time without Father being independently evaluated for mental health concerns. Even then, Mr. Buggs stated that supervised parenting should be assessed as to whether contact or supervised parenting time would be in the children's best interests. Mr. Buggs testified that these concerns based his decision to recommend sole legal and sole physical custody of the children to Mother.

B. Analysis of the best interest standards set forth in Minnesota Statute § 518.17.

- 1. A child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development.*

Father requested in his Petition for the Dissolution of Marriage joint legal and joint physical custody with an equal parenting time schedule. Mother requested sole legal and sole physical custody in her Answer and Counterpetition and at trial. At trial Mother further requested that the recommendations of the GAL be adopted by the Court in the best interests of the minor children.

The children are healthy and do not have any known mental or physical health issues. The children are active and even showed the GAL where they play inside and outside at their home.

Mother testified about how important the children's school is to her and the children. The children attend First Baptist School which is a religious-based school situated in Rosemount, MN. The school's principal previously submitted an affidavit in this case describing his interactions with Father. *See Exhibit 115.*

The children are functioning well under Mother's care in that they are happy, are healthy, and are involved in their school and activities. Mother has been providing for the children's physical, emotional, and spiritual needs while Father has absented himself from the children's lives and these proceedings. Mother's proposal continues with Mother having sole legal and sole physical custody. While the parties have not shared equal parenting time as requested by Father, Father did have significant unsupervised parenting time during these proceedings which the Court restricted to supervised parenting time due to safety concerns. The Court has no evidence that the safety concerns are resolved.

This factor weighs in favor of Mother to award her sole legal custody and sole physical custody of the minor children.

2. *Any special medical, mental health, developmental disability, or educational needs that the child may have that may require special parenting arrangements or access to recommended services:*

The children do not have any medical, mental health, developmental disability or educational needs that require special parenting arrangements or access to recommended services. However, there is evidence to suggest that Petitioner does not take even the basic educational needs of the minor children seriously, as he does not require them to attend school and has interfered with their school. *See Exhibit 115.* Mr. Buggs testified that he interviewed Principal Rodney McCroskey. Mr. Buggs report and testimony suggests that when Petitioner appeared at First Baptist School in May 2023, he recalled Miller and Madison leaving with Petitioner, and Father telling the children not to listen to Mr. McCroskey, their principal. This factor weighs in favor of Mother's requests.

3. *The reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference:*

The children are too young to express a preference. However, the Guardian Ad Litem did interview the two older children who expressed concerns about being with Father. This factor is neutral.

4. *Whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs:*

Mother testified and submitted evidence of domestic abuse perpetrated upon her by Petitioner. The Court finds that domestic abuse has occurred in the parent's relationship against Mother by Father, including on one occasion where Father whipped Mother upside the head multiple times in the presence of three of the young children. *See Exhibit 100A.* There has been significant police involvement with this family.

Much of the conflict between the parties occurred in front of the minor children, such as the incident above, with them witnessing the conflict and abuse by Father. *See Exhibit 100A-100C*. For example, in Mother's petition for an OFP in Court File Number 19AV-FA-22-2348, Colette and Quinn were present for an incident on May 26, 2021, where Father smashed a cantaloupe, a bag of apples, and a plate of food all over the floor and almost hit Quinn with the food. *See Exhibit 100A*. The children have further been witnesses to conflict between the parties since the parties' separation and the issuance of the OFP. For example, Father confronted Mother while videorecording and falsely alleging that Mother had been drinking and driving with the children while the children were present. The children's statements to the Guardian ad Litem that Father talks violently in their presence and refers to Mother as a "witch" indicate that Father is unable to control his animosity toward Mother, and it is unlikely that the parties will be able to safely coparent in the future. Mother testified that she remains highly fearful of Father.

Mother credibly testified that Father has violated that OFP on at least four occasions as shown in Mother's Exhibits 111A-111D. Those exhibits show that Father has been prosecuted for in Court File Number: 19WS-CR-23-9743, Court File Number: 19WS-CR-23-9992, Court File Number: 19WS-CR-22-12498, and Court File Number 19AV-CR-23-9462, that Father has been prosecuted for violation of the OFP. *See Exhibit 108*.

This factor weighs in favor of Mother to award her sole legal custody and sole physical custody of the minor children.

5. *Any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs:*

Father's mental and physical health is of concern to the Court. Evidence submitted by Mother shows that Father was a professional hockey player and sustained numerous injuries during his career. Those injuries were caused by Father extensively fighting on the ice, even being suspended for up to twenty games. Mother testified that she began to see a swift change in Father's behavior. Mother submitted evidence that Father was involuntarily committed in Court File Number: 19HA-PR-23-9. *See Exhibit 110A-110C*. The results of that case, which was dismissed, is unknown and Father has not complied with Mother's discovery requests and disclosed that information. Accordingly, this Court shall make a negative inference as to the status of Father's mental health. Father's mental health is also of concern as it relates to the OFP violations of the order of protection that was granted in favor of Mother for her protection against Father.

There are numerous exhibits introduced by Mother that indicate Father may be suffering from delusional thinking and other mental health issues, including his claims regarding tree sap and interstellar travel (**Exhibit 117K**), social media posts that he is being spied on (**Exhibit 119, 121, and 122**), social media posts accusing Mother's lawyer of stalking him prior to the commencement of the action (**Exhibit 122**), social media posts accusing his Father of sexual molestation (**Exhibit 122**). Mother testified that Father has been making public accusations against Mother, falsely alleging that Mother killed his own mother. Mother also testified, and the exhibits demonstrate, that Father claims to be running for president.

In addition, after Mother left the marital home, as discussed more in the financial section below, Mother discovered that Father did damage to the marital home which Mother's expert opined reduced the value of the home by \$70,000. Father's extensive damage to the marital home, presumably done while the children were living there for part of the time, highlights Father's instability and inability to provide a safe environment for the children.

Mother testified that the separation and litigation has been stressful on her but that she has sought therapy to help her navigate the stress. This was corroborated by Mr. Buggs' report as he interviewed John Rigsby, MS, LPCC, which is Mother's therapist. Mother has no mental, physical, or chemical health issues that pose any concern for her parenting of the minor children.

This factor weighs in favor of Mother to award her sole legal custody and sole physical custody of the minor children.

6. The history and nature of each parent's participation in providing care for the child:

Mother testified that she has been the primary of the children since they were born.

During the parties' marriage, Mother provided a vast majority of the care for the children. Mother was a homemaker for a majority of the parties' marriage. After Mother separated from Father on July 6, 2022, Mother continued to be the children's primary caretaker. Mother testified that she started to work in 2023. While she worked a full-time job, Mother continued to be the children's primary caretaker. Father has not been the primary caretaker of the children at any point of any of their lives. Father has not exercised any parenting time with the children since the *ex parte* order issued on June 28, 2023, despite being granted supervised parenting time.

Mother provided extensive testimony on the intimacy of the relationship between her and the four children. Mother testified that the children are actively involved in their school, church, friends, and ballet. Mother provided testimony on each child's personality and the bond she has with each one of them. Based on the testimony of Mr. Buggs and Mother, the children appear to have a close relationship with Mother.

This factor weighs in favor of Mother to award her sole legal custody and sole physical custody of the minor children.

7. The willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time:

Father has demonstrated that he is either unwilling or unable to provide ongoing care for the children given his failure to participate in these proceedings and his failure to exercise his Court-ordered supervised parenting time with the children. Mother provided evidence of

Father allowing the children to play in the street with trash and play with old mattresses leaned up against Father's home. On one occasion, Father brought the children to Florida and while they were there, the children Facetimed Mother, who witnessed that the children were so severely sunburnt that their faces were swollen and oozing.

Mr. Buggs testified that he was unable to conduct a home visit at Father's home because Father did not participate in the custody evaluation.

The children have reported to the GAL of the difficulties Father had during his parenting time with the children. Mr. Buggs' interview of the minor children are notable. First, during his interview with Madison, she remembers she saw Father "talk violently so often" but that she apparently got used to it. Miller also expressed to Mr. Buggs that "We shouldn't go to Dad's. We act crazy there and we stay up all night" and that at Father's house, she and Madison "kick and fight, and we like it." Miller further expressed to Mr. Buggs that Father told her that Mother is a "witch" and that Mother's mother is "evil." During the interview with Madison, she informed Mr. Buggs that "Dad doesn't make us go to school."

Conversely, the custody evaluator found that Mother was able to provide appropriate care for the children. Mr. Buggs testified that the children are well-adjusted with Mother. Mr. Buggs was able to witness the children interact with each other as well as Mother. Mr. Buggs did not note any concerns regarding the children's relationship with Mother. Mr. Buggs testified that he witnessed Mother redirect all four children in an age-appropriate manner during his home visit. Mr. Buggs described Mother has a great mother who is highly attentive to her children given the unfortunate circumstances in their life caused by Father.

Mother has demonstrated that she is able and willing to maintain a stable environment for the children and provide for their ongoing emotional, social, and developmental needs. This factor weighs in favor of Mother.

8. The effect on the child's well-being and development of changes to home, school, and community:

The minor children all attend First Baptist School. Mother testified that the children enjoy going to the school and are well-adjusted there. Mother testified that the children are engaged in the community through school, church, and extracurricular activities such as ballet. Mr. Buggs testified that the older children appeared to be doing well at the First Baptist School and are adjusted to the home where they reside with Mother. There is no evidence that their home, school, or community would change if Mother were awarded sole custody on a permanent basis. There is evidence in the record to suggest that Father allowed the marital home to be foreclosed upon and that Father is currently not residing in the state of Minnesota. Father has not notified the Court of any address change, however. This factor weighs in favor of Mother.

9. The effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life:

Father has evidently elected not to continue a relationship with the minor children given his failure to follow through with his Court-ordered parenting time and his failure to participate in these proceedings. Further, Father does not have a close relationship with his family, as Mother provided evidence that he has recently taken to social media to accuse his father of committing crimes against him and against the parties' children. Granting Father custody or parenting time with the children would thus likely not facilitate a relationship between the children and their paternal family.

Mother testified describing several activities that she does with the children. Mother testified that her family has a cabin in Wisconsin that they visit frequently, and Mother's sister also lives in Wisconsin with her children providing the children with strong family ties to Mother's family. Mother testified that the children have a strong bond with her parents, as they have resided with them for over two years since Mother separated from Father. Mother testified that the minor children are bonded and get along very well, each having their own unique personality. Mr. Buggs testified that the children played well together and the younger two children, Colette and Quinn, engaged in the same activities as the Miller and Madison. Mother also testified that she has fostered a relationship between the minor children and Father's father, sister, and brother, and the sister and brother's children.

The Court has no concerns that Mother will encourage or facilitate the children's relationships with their relatives. Mother credibly testified that she would continue to facilitate those relationships between the children and extended family members as she has done throughout the years and throughout these proceedings.

This factor weighs in favor of Mother to award her sole legal custody and sole physical custody of the minor children.

10. *The benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent:*

Father has endangered the minor children when they were in his care, both emotionally and physically. Mother credibly testified that the children lacked adequate supervision during Father's parenting time. Father also exposed the children to parental conflict, domestic violence between the parents, and has actively promoted a negative view of others to the children. Father has also made confusing statements to the children such as telling Miller the other children at her camp were pedophiles.

Based on the Father's conduct in this case, his endangerment of the children while in his care, and his failure to follow through on supervised parenting time, the Court finds that the children will not benefit from maximizing parenting time with Father. Meanwhile, the children are safe, happy, and healthy while in Mother's care and her parenting time should be maximized. The evidence suggests that Father should have no contact or parenting time with the children until such time that he can show he is mentally and physically able and willing to provide the children with safe and appropriate care.

This factor weighs in favor of Mother to award her sole legal custody and sole physical custody of the minor children.

11. *Except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent:*

Domestic abuse has occurred between the parties and thus this factor does not apply.

12. *The willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child:*

Father has shown an inability to cooperate in the rearing of the children, whether due to mental illness, chemical use, or animosity toward Mother and those who may disagree with him. Father has failed to follow Court Orders in this proceeding, has violated the OFP on multiple occasions, and has criticized this Court, Mother, and Mother's lawyer in his public social media posts. Father has exposed the children to parental conflict, and he has even recorded these events which were submitted in Mother's exhibits.

This factor weighs in favor of Mother to award her sole legal custody and sole physical custody of the minor children.

13. **Rebuttable Presumptions Of Minn. Stat. 518.17, Subd. B (9).**

In cases where there is a finding of domestic abuse, the Court must use a rebuttable presumption that joint legal custody or joint physical custody is not in a minor child's best interest. Minn. Stat. 518.17, subd. B(9). The statute directs the Court to consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the children's safety, well-being, and developmental needs. As set forth above, the domestic abuse and subsequent abusive behaviors occurring on Father's part did have a dramatic impact on the children. Given the continued hostility from Father to Mother as evidenced on his social media, the presumption against joint custody has not been rebutted. It is appropriate to award Mother sole legal custody and sole physical custody of the minor children.

C. **Custody Determination.**

The Court finds that the best interest factors weigh heavily in favor of awarding Mother sole legal and sole physical custody of the four (4) minor children. The Court finds that it would not be detrimental for Mother to have the sole authority over the children's upbringing. It would be detrimental, however, for Father to have any authority over the children's upbringing. The Court

finds that Mother should be awarded the sole authority and decision making over the children's upbringing.

Based on the full evidence in the record pertaining to the statutory custody factors, the Court finds that an award of sole legal custody and sole physical custody of the minor children to Mother is in the best interests of the minor children.

D. Parenting time.

Parenting time is not absolute and is to be exercised only when in the best interest of the child. *Manthei v. Manthei*, 268 N.W.2d 45 (Minn. 1978). The focus in granting parenting time is primarily the best interests of the child. Minn. Stat. § 518.175, subd. 1. Based on the evidence adduced at trial, this Court finds that the minor children's parenting time should be set as set forth below in the Conclusions of Law. Mr. Buggs recommended Mother be awarded sole legal custody and sole physical custody of the minor children with no specified parenting time for Father. Mr. Buggs states in his report, and testified at trial, that prior to Mother having any contact or supervised parenting time with the children, he should be required to submit to a seven-panel hair follicle test as well as medical and psychological evaluations. The Court agrees as set forth below in the Conclusions of Law. The Court further finds that any parenting time or contact with Father is likely to endanger the children's physical and emotional health and impair the children's emotional development.

E. Social Media Prohibition.

On July 25, 2023, the Court issued a temporary order. The Temporary Order required Father to "delete any and all social media posts that contain videos or photos of the parties' minor children." See Temporary Order dated July 25, 2023, at ¶6. The Court enjoined each party from posting, commenting, or doing any sort of act that would "annoy, injure, disparage, harass, vilify or interfere" the other party or the minor children. *Id.*, at ¶7. At trial, Mother testified that Father continues to post about the minor children and disparaging comments about Mother. Mother testified that even the weekend before trial, Father was posting pictures of the children. Father unsuccessfully tried to vacate the Court's July 25, 2023, Temporary Order, claiming that the prohibition violated his First Amendment Rights. However, Father failed to even show up to the hearing on his claims. Prior to trial, Mother filed a Memorandum of Law requesting the social media posts about the minor children be ordered on a permanent basis. Mother provided authority that such a restriction is not an infringement on Father's First Amendment Rights because it is a content-neutral restriction. *Winkowski v. Winkowski*, A21-0059, 2021 WL 4059098 *2 (Minn. Ct. Appl Sep. 7, 2021, *rev. denied* (Minn. Nov. 24, 2021)). As that case states, a content-neutral restriction is constitutional if the restriction is narrowly tailored to serve a significant government interest and the other communication platforms remain open. *Id.* at *3 (citing *State v. Casillas*, 952 N.W.2d 629, 640-41 (Minn. 2020)). The Court finds it appropriate to grant Mother's request on a permanent basis to prohibit Father from posting about the minor children or to harass Mother through his social media posts. The law allows the Court to grant this request because it is consistent with the best interests of the children as Father's posts are accessible to others and the children did not consent to these images. As set forth in the conclusions of law, Father will be subject to the social media provision on a permanent basis.

F. First Baptist School Prohibition.

This Court previously issued an order that Father shall not visit or go to the First Baptist School in Rosemount, Minnesota. *See* Temporary Order dated July 25, 2023, at ¶ 5. Further, the Court prohibited Father from harassing or otherwise vilifying the school, its faculty, or staff whether that be online or in-person. Mother testified at trial how well the children are excelling at First Baptist School and her desire for the children to continue getting their education at that school. Given Father's conduct which necessitated the order prohibiting him from going to First Baptist School or harassing their employees or staff online or in-person, the Court finds it appropriate to continue the prohibition that Father be prohibited from going onto or visiting First Baptist School premises or harassing or vilifying their employees in-person or online.

14. FINANCIAL CIRCUMSTANCES OF THE PARTIES.

A. Petitioner's Income. Husband stated in his Petition that he was unemployed. Husband's current employment status is unknown and there is no evidence he is employed. Shortly after Husband's hockey career and the parties settled in Apple Valley, Husband was hired by Thomson Reuters as an Event Coordinator on March 18, 2019. Husband's paystubs reflect that he was making \$5,146 gross income per month. There is no evidence that Husband cannot be employed, and it is presumed that parents are able to be employed on a full-time basis (40 hours per week). *See* Minn. Stat. § 518A.32. The Court finds that Husband has the ability to earn at least \$5,146 per month commiserate with his job at Thomson Reuters, the most recent evidence on his employment potential. *See id.*

B. Petitioner's Expenses. Husband did not submit a budget or list of expenses in this matter.

C. Respondent's Income. Wife testified that she is on a temporary pause from employment. Wife was employed with ElectroMed, Inc., as an Account Manager, with an estimated gross income of \$4,467 per month. Wife agrees that she has the potential to earn \$4,467 per month commiserate with her most recent job.

D. Respondent's Expenses. Wife provided estimated monthly expenses to the Court of \$7,181.17, which represents Wife's projected expenses for herself and the four minor children. *See Exhibit 148.* The Court finds Wife's budget to be reasonable.

15. FACTORS AFFECTING MAINTENANCE. Husband has requested spousal maintenance from Wife in his initial petition. Wife also requested maintenance in her Answer and Counterpetition, but by the time of trial, Wife withdrew her claim for spousal maintenance. Accordingly, the Court makes the following findings pursuant to Minn. Stat. § 518.552 with regard to Husband's claim for spousal maintenance from Wife:

A. The financial resources of the party seeking maintenance, including marital property apportioned to the party, and the party's ability to meet need independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian.

Wife presented her monthly budget, back-support claim, and paystubs which provides the Court with information as to the finances of this case. Husband did not submit a budget in this matter, nor did he cooperate in discovery or submit any evidence supporting his claim for spousal maintenance. The only information that the Court has on Husband's financial status is the information submitted by Wife, which she was forced to retrieve by a series of subpoenas. This factor weighs against Husband's claim for spousal maintenance.

B. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and the probability, given the party's age and skills, of completing education or training and becoming fully or partially self-supporting.

Husband is voluntarily unemployed and capable of working full-time. While Father is reportedly a student at the University of Michigan, See **Exhibit 153**, there is no evidence to suggest that his student status was done as part of a bona fide change in employment. There is no evidence that Husband is incapable of self-support. Meanwhile, Wife was predominantly a homemaker during the marriage and is not capable of earning sufficient income to meet her budget (although she is not requesting spousal maintenance). This factor weighs against Husband's claim for spousal maintenance.

C. The standard of living established during the marriage.

The parties lived a somewhat modest lifestyle during the marriage. There was no testimony or evidence submitted to the Court that would suggest the parties lived an extravagant lifestyle. Husband had not developed a claim that Wife established a standard of living during the marriage that would entitle Husband to spousal maintenance. There is no evidence of Husband's budget. This factor weighs against Husband's claim for spousal maintenance.

D. The duration of the marriage and, in the case of a homemaker, the length of absence from employment and the extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished.

The parties were only married for five years at the time of their separation. Husband was never a homemaker and is apparently voluntarily unemployed. This factor weighs against Husband's claim for spousal maintenance.

E. The loss of earnings, seniority, retirement benefits and other employment opportunities forgone by the spouse seeking spousal maintenance.

Husband worked during the parties' marriage and thus did not forgo any employment opportunities or benefits due to the marriage. This factor weighs against Husband's claim for spousal maintenance.

F. The age, and the physical and emotional condition of the spouse seeking maintenance.

Husband is currently 36 years of age. Husband has not claimed that he is unable to work due to a physical or emotional condition. This factor weighs against Husband's claim for spousal maintenance.

G. The ability of the spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance.

Wife testified that she is currently unemployed. Wife is also the primary provider for the parties' four minor children. Wife does not have the ability to support herself, the parties' four children, and Husband on little to no income. It would be inequitable to require Wife to pay spousal maintenance to Husband. This factor weighs against Husband's claim for spousal maintenance.

H. The contribution of each party in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker or in furtherance of the other party's employment or business.

As further discussed below, Husband substantially contributed to the depreciation in value of the marital home, which was the party's largest marital asset. This factor weighs against Husband's claim for spousal maintenance.

16. HEALTH INSURANCE FOR THE MINOR CHILDREN. Wife currently covers the parties' and children's medical and dental insurance through United Healthcare Choice Plus HDHP 3000. The monthly medical insurance premium for the children is \$328.76 per month, and the dental insurance premium is \$54.00 per month.

17. CHILD SUPPORT.

A. Parental Income for Determining Child Support. Based on the parties' respective incomes as set forth above, the combined Parental Income for Determining Child Support (PICS) is \$9,613. Father's percentage of the combined parental income is 54% and Wife's percentage of the combined parental income is 46%.

B. Parenting Time. Father is awarded zero overnights with the minor children as set forth in the Conclusions of Law herein. Mother is awarded 365 overnights.

- C. **Basic Child Support.** Father's ongoing basic child support obligation pursuant to the Child Support Guidelines Worksheet (**Exhibit 149 – Phase 6**) is \$1,122 per month.
- D. **Medical Support.** Father's ongoing medical support obligation pursuant to the Child Support Guidelines Worksheet is \$207 per month (\$178 for health insurance coverage and \$29 for dental coverage).
- E. **Childcare Support.** Mother currently incurs work or education related childcare expenses for the minor children in the amount of \$174 per month. Father's contribution toward child care pursuant to the Child Support Guidelines Worksheet is \$56 per month.
- F. **Net Support Obligation.** Father's total net monthly child support obligation is \$1,385.

18. **MOTHER'S BACK CHILD SUPPORT CLAIM.** Mother sought an award of child support retroactive to the date of Mother's ex parte OFP against Father (September 9, 2022). See **Exhibit 149.** The trial court has the ability to award retroactive child support. See *Korf v. Korf*, 553 N.W.2d 703, 710 (Minn. Ct. App. 1996). In *Korf*, the court of appeals indicated that a trial court may award a party in a dissolution proceeding child support retroactive to the date of the parties' separation. *Id.* at 710 (citing *In re: J.M.K.*, 507 N.W.2d 459, 461 (Minn. Ct. App. 1993) (explaining that while the district court lacks authority to grant a temporary order for retroactive child support when there is no dissolution proceeding pending until the time of the hearing, this does not preclude the court from ordering retroactive support in the final dissolution proceeding). In the instant case, Husband has not paid any financial support to Wife for the support of the parties' minor children after the parties' separation. During the proceeding, Wife provided a majority of the care for the children. Husband's parenting time with the children has not increased, and Wife continues to provide all care of their care.

Mother's back support claim is separated into 5 separate phases (with the sixth phase being ongoing support from March 1, 2024). Each new phase reflects a change in Father's child support obligation due to either a change in parenting time, a change to childcare costs, or the law (or some combination of changes). For Phase 1, which is from September 9, 2022 through October 12, 2022, Father owes a net child support obligation of \$2,261. For Phase 2, which is from October 13, 2022 through December 31, 2022, Father owes a net child support obligation of \$3,336. For Phase 3, which is from January 2, 2023 through May 31, 2023, Father owes a net child support obligation of \$5,570. For Phase 4, which is from May 31 2023 through June 28, 2023, Father owes a net child support obligation of \$704. For Phase 5, which is from June 28, 2023 through February 28, 2024, Father owes a net child support obligation of \$10,632. Mother testified that Father has not paid any child support to Mother since the parties' separation. The Court finds the retroactive child support request to be reasonable and in the minor children's best interests. Accordingly, Father owes total back support toward the minor children's support of **\$22,827.**

19. **VALUATION DATE.** The valuation date is June 14, 2023, when the pre-trial conference was held in this matter.

20. **PROPERTY DISTRIBUTION.** The parties have the following assets and debts:

A. **Marital Homestead.** The parties are the owners of real property in the form of the homestead located at 15174 Dupont Path, Apple Valley, Minnesota 55124, legally described as:

**TOUSIGNANTS PRAIRIE CROSSING 41 5 CIC #240 TRADITIONS OF PRAIRIE
CROSSING COMMON AREA KNOWN AS LOTS 55 56 & 57 BLK 5 & ALL OF LOT**

In 2017, the parties purchased the marital home prior to the marriage located at 15174 Dupont Path, Apple Valley, MN 55124, and the home was solely in the name of Husband. Husband owned the home on the valuation date. Wife contends that although home was in husband's name only, the equity in the home as of the valuation date was marital. Wife submitted evidence of and testified that her parents gave her funds in the amount of \$7,382 for the down payment on the home. *See Exhibit 124A-124B.* Wife also testified that they had a mortgage, and after the parties were married, they used marital funds to pay for the mortgage on the home. Wife's mother, Debra Czeck, briefly testified regarding the same. Wife's mother testified that her and her husband have provided money to their other children to help fund their wedding. However, Debra Czeck testified that because Wife did not have a wedding, they gave her money for the down payment on the home instead. Wife's mother testified that she did not give the funds for Wife's sole use, but for the parties to buy their first home with their children. This is important because, after Wife separated from Husband on July 6, 2022, Husband destroyed the home to the tune of \$70,000. Wife submitted a retroactive appraisal from Derek Rizzo, of Anthem Valuations. *See Exhibit 125.* Mr. Rizzo's appraisal provides two amounts: one amount that is the market value and one "as if" amount to demonstrate what the house would be worth "as if" the damage in the home did not occur. Mr. Rizzo opined the home is worth \$340,000, however, the "as if" value is \$410,000, due to a host of electrical, window, flooring, paint, drywall, other facets of the home which were destroyed by Husband. Not only did Husband incur at least \$70,000 on the marital home value, he also allowed the home to go into foreclosure when there was considerable equity in the home. *See Exhibit 152; See Exhibit 153.* Wife was unable to collect additional information on the status of the foreclosure because, when the parties purchased the home, only Husband's name was attached to the deed and associated mortgage.

The Court finds that the fair market value of the home is \$340,000.00, but that Husband's conduct has substantially decreased the value of this asset. The fair market value of the home would be \$410,000.00 but for the electrical damage, painted windows, damaged flooring, paint and drywall damage, damage to the basement bathroom, damage to window screens, damage to garage door, and missing interior and closet doors. Wife testified that this damage occurred after the parties' separation and was inflicted by Husband.

The homestead was encumbered by a mortgage through PennyMac, with an unpaid principal balance of \$244,147.16, as of June 16, 2023. *See Exhibit 126, at 46.* Husband filed a Motion on December 22, 2023, *See Exhibit 153,* where he admits to the home being in foreclosure.

The Court finds that as of the valuation date, the homestead had or should have had (but for Husband's conduct) a net marital value of \$165,852.84, which will be considered in the overall property distribution herein.

B. Bank Accounts. The parties are the owners of, or have an interest in the following bank accounts with the following values as of the valuation date:

- i. Wife's U.S. Bank Easy Checking Account x5242, with a balance of \$31.94 as of May 11, 2023. *See Exhibit 127.* It is appropriate to award this account to Wife.
- ii. Wife's U.S. bank Gold Checking Account x0554, with a balance of \$409.88, as of May 16, 2023. *See Exhibit 128.* It is appropriate to award this account to Wife.
- iii. Wife's Optum Bank Health Savings Account (HSA) x9434, with a balance of \$2,335.25, as of April 16, 2023. *See Exhibit 129.* It is appropriate to award this account to Wife. It is appropriate to award this account to Husband.
- iv. Husband's U.S. Bank Silver Checking Account x7580, with a balance of \$0. According to the bank statements, the account was forced closed on October 19, 2022. *See Exhibit 130.* It is appropriate to award this account to Husband.
- v. Husband's U.S. Bank Money Market Savings Account x8955, with a balance of \$0. According to the bank statements, the account was closed by Husband on February 23, 2023, per the statement dated February 24, 2024. *See Exhibit 131.* It is appropriate to award this account to Husband.
- vi. Husband's E*Trade Bank Account x2402, with a balance of \$5.96, as of June 7, 2023, per the statement dated June 30, 2023. *See Exhibit 132.* It is appropriate to award this account to Husband.

The parties do not have any joint accounts.

C. Regular Investments / Brokerage Accounts/Roth. The parties are the owners of, or have an interest in the following investment/brokerage/ROTH accounts with the following values as of the valuation date:

- i. Wife's E*Trade Account x6359, with a value of \$6.04, as of March 31, 2023. *See Exhibit 133.* The Court finds it appropriate to award this account to Wife.
- ii. Husband's E*Trade Account x5300, with a value of \$0.01 as of May 31, 2023. According to the statements, there was minimal activity until March 2022 and, at this time, there were large purchases on margin, with significant activity throughout 2022. *See Exhibit 135.* It is appropriate to award this account to Husband.
- iii. Husband's E*Trade Account x9201, with a balance of -\$9.02, per statement dated June 30, 2023. *See Exhibit 136.* It is appropriate to award this account to Husband.

D. Retirement/Pension Accounts. The parties are the owners of, or have an interest in the following retirement/pension accounts with the following values as of the valuation date:

- i. Wife's Fairview Health 403(b), with a balance of \$6,490.88, per the statement ending on March 31, 2023. *See Exhibit 137.* It is appropriate to award this account to Wife.
- ii. Husband's E*Trade Account x0158, IRA Contributory, with a balance of \$0. According to the statement, Husband opened the account on January 30, 2018, with a \$3,386.03 rollover contribution, and then added \$12,869 on February 25, 2022. Thereafter, there were millions of dollars that were securities that were purchased and sold, with said transactions commencing in March 2022. However, Husband closed the account on October 31, 2022. *See Exhibit 138.* It is appropriate to award this account to Husband.
- iii. Thomson Reuters 401(k) – Based on Husband's paystubs from when he was employed with Thomson Reuters, Wife submitted an exhibit of Husband's 401(k) contributions in the amount of \$10,808.62. *See Exhibit 146.* The Court finds it appropriate to award the Thomson Reuters 401(k) contributions to Husband.

E. Vehicles. The parties are the owners of, or have an interest in the following vehicles:

- i. 2016 Chrysler Town & Country Touring Minivan, which is not encumbered by a loan and has a fair market value of \$9,968. Husband never responded to Wife's discovery, so she had limited knowledge about the minivan. This vehicle is in the exclusive use and possession of Husband. However, based on Wife's limited knowledge, the minivan was apparently totaled but the proceeds from the insurance company have not been traced. It is appropriate to award this vehicle to Husband.
- ii. 2012 Ford Focus S, which is not encumbered by a loan and has a fair market value of \$3,634. This vehicle is in the exclusive use and possession of Wife. It is appropriate to award this vehicle to Wife.

F. Custodial Accounts. The parties are not owners of or have an interest in custodial accounts as of the valuation date.

G. Personal Property. The parties acquired certain personal property during the course of the marriage which has already been equitably divided by Husband's keeping the personal property in his possession, and Wife keeping the personal property in her possession.

H. Life Insurance Policies. The parties are the owners of life insurance policies as follows:

- i. Wife's Insperty Life Insurance Policy with a zero cash value and a death benefit of \$50,000.

I. **Debts.** The parties have the following debts as of the valuation date:

- ii. Wife's Capital One x9826, with a balance owed of \$0 as of May 13, 2023.
- iii. Wife's Attorney Fees and Costs with Mack & Santana Law Offices, P.C., with a balance owed of \$29,483.48. Wife is making a claim against Husband for conduct-based attorney's fees, addressed more fully below.
- iv. Husband's liabilities are unknown as he failed to respond to Wife's discovery requests. Accordingly, it is appropriate to allocate any and all debt in Husband's own or separate name to Husband.

J. **Property Settlement Payment from Petitioner to Respondent.** The Court has attached a worksheet showing the equitable distribution of the parties' assets and debts as **Exhibit A**, which the Court adopts as its findings. Based on Exhibit A, Husband's equalizer payment to Wife is **\$86,859.21**. The Court will order Husband to pay this sum as part of a fair and equitable distribution of the marital property herein.

21. **HEALTH AND DENTAL INSURANCE FOR PARTIES.** The Wife has health insurance coverage available to her through United for the benefit of the Wife and the minor children. *See Exhibit 149, pages 15-19.* The Court will order Wife to continue to cover the children under her insurance policy for so long as the policy is available to her.

22. **ATTORNEY FEES.** Wife seeks conduct-based attorney's fees and costs from Husband. In general, attorney fee awards in dissolution proceedings are governed by Minnesota Statute § 518.14. Minnesota Statute § 518.14 allows this Court to award both need-based and conduct-based attorney fees in this dissolution proceeding. Pursuant to Minnesota Statute § 518.14, this Court may award "...additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding...at any point in the proceeding..." Any award of attorney fees may be collected from money awarded as part of the proceeding, out of sequestered property, "or in any manner within the power of the court." *Id.* For conduct-based fees, the Court does not have to make a finding that the party who is ordered to pay the conduct-based fee award has the ability to pay.

Wife claims that Husband's conduct unreasonably caused her to incur additional fees. Wife submitted \$15,005.60 in attorney's fees and costs related to Husband's conduct that unnecessarily extended the length and expense of this proceeding. Wife's attorney fee claim provides different categories for the attorney's fees that she incurred in this matter. Wife submits \$345 for motions filed by Husband that was beyond the scope, \$3,665 for motion hearings when Husband failed to appear, \$1,057.50 in attorney's fees for discovery, \$445 to litigate Husband's First Amendment claim but Husband failed to show up at the hearing, \$1,387.50 in duplicative service/ frivolous legal arguments, \$27.50 for reviewing the GAL's letter informing the Court and Wife's attorney that Husband was not responsive in the process, \$1,905 in reviewing and responding to Husband's inappropriate emails to the clerk or improper court requests, \$62.50 in pleadings not served on

Wife's attorney, \$840 in responding to frivolous motions filed by Husband, \$4,480 in subpoena issues due to the lack of discovery responses from Husband, \$670 for the Supervised Safety Center Investigation, and \$120 for violation of the parenting time order in the OFP matter. Based on these figures, which totals \$15,005.60, the Court finds that Husband unnecessarily increased the length and expense of this proceedings given (1) Husband's failure to answer discovery even after Wife's motion to compel discovery was granted; (2) Wife having to incur fees to issue subpoenas to gather basic information about Husband's assets; (3) Husband filing two separate motions in this action and then failing to show up at the hearing on said motions; (4) Husband's frivolous claims with no basis in fact or law (for example, Husband claimed that he has sole custody of the children by virtue of a trust he established); and (5) Wife incurred fees to arrange for Husband's supervised parenting time only for him to fail to follow through on such time.

Wife submitted an attorney fee affidavit with her trial exhibits (**Exhibit 151**) requesting conduct-based fees in the amount of \$15,005.60 related to the above conduct. The Court will grant such fees and Husband's conduct did unreasonably contribute to the length and expense of these proceedings and Wife's fees were necessary for her proper representation.

23. WIFE'S DISSIPATION CLAIM. As addressed above with respect to the Court's findings on the marital homestead, Wife has brought a dissipation claim against Husband for the decrease in value of the homestead due to Husband's conduct. The Court finds it equitable to credit Wife for Husband's dissipation of this asset and has done so in the findings as to the homestead's value. *Sun v. Yang*, A22-1620, 2023 WL 8539602 (Minn. Ct. App. Dec. 11, 2023) (holding that the trial court can adjust a party's marital equity in the home by the estimated cost of repairs that husband caused to the home). The Court finds *Sun v. Yang* to be instructive in this case.

24. PROPERTY SETTLEMENT PAYMENT FROM HUSBAND TO WIFE. The Court finds it fair, just, and equitable to equalize the property awarded to each party through a cash property equalizer payable by Husband to Wife in the total amount of **\$86,859.21.**

25. TAX RETURNS/DEPENDENCY EXEMPTIONS. Mother shall be permitted to claim the minor children as dependents and any child tax benefits associated with the children beginning in tax year 2022 and each year thereafter.

FROM THE FOREGOING, THE COURT MAKES THE FOLLOWING AS:

CONCLUSIONS OF LAW

1. DISSOLUTION OF MARRIAGE. The marriage existing between the parties is dissolved.

2. CUSTODY. Respondent Kirsten Colleen Conboy is awarded sole legal and sole physical custody of the minor children namely:

Miller Grace Conboy, born July 26, 2014, age 9;
Madison Colleen Conboy, born March 8, 2016, age 8;
Colette Isabella Conboy, born January 8, 2019, age 5; and

Quinn Adeline Conboy, born May 20, 2020, age 3.

3. PARENTING TIME. Father shall not have contact or parenting time with the children, unless and until further ordered by the Court upon a proper motion to establish parenting time. Prior to bringing any motions to establish parenting time, Father shall do the following:

a. Father shall submit to a seven-panel hair follicle test and provide the results with any motion.

b. Father shall participate in medical and psychological evaluations and list Mother as a collateral source for said evaluations, and provide the results of those evaluations with any motion.

4. SOCIAL MEDIA PROHIBITION. Father shall delete any and all social media posts that contain videos or photos of the parties' minor children. Father is enjoined and restrained from posting, commenting, doing or attempting any act which might annoy, injure, disparage, harass, vilify or interfere with Mother or any minor children of the parties in any manner, or cause the Mother or any minor children of the parties fear of harm either in or out of the home, in person, by agent, on social media, by telephone or email. Father is specifically prohibited from posting photos and videos of the minor children to his public social media accounts or his website[s]. Should father not comply, the Court will entertain a motion for contempt against Father to compel his compliance, and shall take his failure to comply into consideration in favor of Mother as to Father's future requests for supervised parenting time.

5. FIRST BAPTIST SCHOOL PROHIBITION. Father shall not visit nor go to the minor children's school, First Baptist School in Rosemount, Minnesota. Father shall not harass or otherwise vilify the school, its faculty, or its staff in-person or online.

6. CHILD SUPPORT.

6.1. Basic Child Support: Commencing March 1, 2024, Father's monthly basic support obligation after parenting expense adjustment is \$1,122 per month.

6.2. Medical Support: Commencing March 1, 2024, Father's medical support obligation to Mother is \$207 per month.

6.3. Child Care Support: Commencing March 1, 2024, Father's childcare support obligation to Mother is \$56 per month.

6.4. Net Support: Based on the amounts provided above and pursuant to the Minnesota Child Support Guidelines, Father's net child support obligation commencing March 1, 2024 is **\$1,385** per month (Father's \$1,122 monthly basic support obligation, plus Father's \$207 monthly medical support obligation, plus Father's \$56 monthly childcare support obligation).

6.5. Cost of Living Adjustment – Child Support (COLA): Cost of living adjustments shall be applied pursuant to the provisions of Minn. Stat. § 518A.75, or any amendments thereto.

7. RETROACTIVE CHILD SUPPORT. Father shall pay to Mother the sum of **\$22,827** as and for back support for the minor children. Judgment in Mother’s favor for this back support will be entered upon entry of this Judgment and Decree. Father shall pay toward back support/judgments/arrears in a monthly amount equal to 20% of this ongoing child support obligation, including medical support and childcare contributions, if any, effective March 1, 2024, and continuing each month thereafter until paid in full. If ongoing child support terminates, then Father shall pay an amount equal to 120% of the child support obligation at the time child support terminated as the court-ordered arrears payment. The amount shall continue until all arrears are paid in full.

8. HEALTH CARE COVERAGE AND DENTAL INSURANCE FOR MINOR CHILDREN AND UNREIMBURSED EXPENSES. Each party shall make a contribution toward the health care coverage and dental insurance premiums, and uninsured medical, dental, orthodontia, mental health and optical expenses incurred for the minor children. The premium paid for the dependent coverage shall be divided by the parties relative to their proportional share of income (PICS). Wife shall maintain in full force and effect all health care coverage and dental insurance available to her through her employment for the benefit of the parties' minor children, continuing through emancipation. Wife shall be responsible for 46 percent of the cost of the children's medical and dental insurance premiums, in addition to being responsible for paying 46 percent of any prescriptions, co-pays, deductibles, dental, orthodontia, mental health or optical expenses (including corrective lenses) of the children not covered by insurance. Husband shall be responsible for 54 percent of the cost of the children's medical and dental insurance premiums, in addition to being responsible for paying 54 percent of any prescriptions, co-pays, deductibles, dental, orthodontia, mental health or optical expenses (including corrective lenses) of the children not covered by insurance. In the event that Wife becomes ineligible for dependent insurance coverage and Husband is able to obtain comparable insurance coverage, that coverage will be immediately obtained. In the event that neither party is able to obtain group health insurance, they shall determine if appropriate coverage is available.

9. SPOUSAL MAINTENANCE. As and for Husband’s claim for spousal maintenance, Husband’s claim is **DENIED**. Neither party shall pay any spousal maintenance to the other.

10. MEDICAL, HOSPITALIZATION AND DENTAL INSURANCE. Wife shall maintain her own health insurance for the benefit of her and the minor children. Husband shall obtain his own health coverage at a cost that will be Husband’s sole responsibility.

11. HOMESTEAD. The homestead located at 15174 Dupont Path, City of Apple Valley, County of Dakota, State of Minnesota, and legally described as:

TOUSIGNANTS PRAIRIE CROSSING 41 5 CIC #240 TRADITIONS OF PRAIRIE CROSSING COMMON AREA KNOWN AS LOTS 55 56 & 57 BLK 5 & ALL OF LOT

is hereby awarded to Husband, who shall be solely responsible for payment of the mortgage, together with all liabilities associated with the homestead, insurance, taxes, and utilities, and Husband shall hold Wife harmless therefrom.

12. BANK ACCOUNTS. Wife is awarded all right, title, interest, and equity, free and clear of any claim on part of the Husband, in and to any cash and savings or checking accounts in Wife's name, including but not limited to Wife's U.S. Bank Easy Checking x5242, U.S. Bank Gold Checking x0554, and Optum Bank HSA Account x9434. Wife shall be solely responsible for any and all liabilities associated with bank accounts in her name, and Wife shall fully indemnify and hold Husband harmless from any obligation, including also reasonable attorney fees and costs, to pay the same.

Husband is awarded all right, title, interest, and equity, free and clear of any claim on part of the Wife, in and to any cash and savings or checking accounts in Husband's name, including but not limited to Husband's U.S. Bank Silver Checking Account x7580, U.S. Bank Money Market Savings Account x8955, and E*Trade Bank Account x2402. Husband shall be solely responsible for any and all liabilities associated with bank accounts in his name, and Husband shall fully indemnify and hold Wife harmless from any obligation, including also reasonable attorney fees and costs, to pay the same.,

13. VEHICLES. Wife is awarded all right, title, interest and equity free and clear of any claim on part of the Husband in and to the 2012 Ford Focus S. Wife shall assume any expenses and encumbrances associated with said vehicle, and Wife shall fully indemnify and hold the Husband harmless from any obligation to pay the same, including reasonable attorney fees and costs.

Husband is awarded all right, title, interest and equity free and clear of any claim on part of the Wife in and to the 2016 Chrysler Town & Country. Husband shall assume any expenses and encumbrances associated with said vehicle, and Husband shall fully indemnify and hold the Wife harmless from any obligation to pay the same, including reasonable attorney fees and costs.

14. PERSONAL PROPERTY. The personal property of the parties has already been divided. Wife's award of personal property shall be the personal property that is currently in her possession. Husband's award of personal property shall be the personal property that is currently in his possession. There is no other personal property to divide amongst the parties.

15. LIFE INSURANCE. Wife is awarded all right, title, and interest, to her Insperity Life Insurance Policy with zero cash value and a death benefit of \$50,000.

16. DEBTS.

- (a) Except as otherwise specified in this Judgment and Decree, Husband shall be and hereby is solely and exclusively liable and responsible for payment of all debts he might have incurred in his own name or for his own benefit and any debts or liabilities relating to any assets and personal property awarded. Husband shall and

hereby does indemnify and hold Wife harmless from any debt for which Husband is liable herein, including any attorney's fees and costs which might be incurred in connection with the collection of a debt by the creditor.

- (b) Except as otherwise specified in this Judgment and Decree, Wife shall be and hereby is solely and exclusively liable and responsible for payment of all debts she might have incurred in her own name or for her own benefit including but not limited to: Wife's Capital One Account x9826 and Wife's attorney's fees and costs, subject to the award of conduct-based fees addressed herein, and any debts or liabilities relating to any assets and personal property awarded to her; and Wife shall and hereby does indemnify and hold Husband harmless from any debt for which Wife is liable herein, including any attorney's fees and costs which might be incurred in connection with the collection of a debt by the creditor.

17. UNDISCLOSED DEBTS/INCURRING DEBT IN NAME OF OTHER. In the event there is a debt or obligation that is not heretofore disclosed, that obligation shall be and hereby is the sole responsibility of the party that incurred it. In that event, the incurring party shall and hereby does indemnify and hold the other party harmless from any debt for which the incurring party is liable herein, including any attorney's fees and costs which might be incurred in connection with the collection of a debt by the creditor. Except as specified in this Judgment and Decree, neither party shall incur debt in the name of the other.

18. PROPERTY SETTLEMENT PAYMENT. As and for a cash equalizer payment, Husband shall pay to Wife **\$86, 859.21** within 30 days of the date of entry of this Judgment and Decree.

19. TAXES. Wife shall have the ability to claim the dependent children on her state and federal income tax returns for tax year 2022 and each year thereafter. Husband shall execute any and all documents necessary to effectuate this provision.

20. ATTORNEYS' FEES. Wife's claim for conduct-based attorney's fees in the amount of **\$15,005.60** is **GRANTED**. Husband shall pay this sum to Wife within 30 days of the date of this Judgment and Decree. Husband is responsible for any other attorney's fees he incurred in this matter.

21. INDEMNIFICATION. For purposes of this document, the indemnification and hold harmless provisions and language set forth herein, shall include responsibility for any direct losses sustained by the other party as well as any indirect losses sustained by the other party. Indirect losses shall include but not be limited to losses which may be sustained as a result of a party failing to pay a joint debt of the parties in a timely manner which results in:

21.1. The diminution of the other party's credit rating;

21.2. The imposition by a lender of additional requirements arising directly as a result of a party's failure to pay joint debts in a timely manner; and

21.3. Such other consequences which negatively affect the other party's ability to secure credit.

22. CLAIMS AGAINST THE ESTATE.

22.1. Support. Should there be any delinquent child support or any such payments due in the future, at the death of the obligor, which obligations are not satisfied by life insurance, life insurance trust, will, or any other security devise, Husband shall have a claim against the estate of Wife, including both probate and non-probate estate, for any monies due her under this Judgment and Decree. Should there be any delinquent child support or any such payments due in the future, at the death of the obligor, which obligations are not satisfied by life insurance, life insurance trust, will, or any other security devise, Wife shall have a claim against the estate of Husband, including both probate and non-probate estate, for any monies due him under this Judgment and Decree.

22.2. Assets, Liabilities and Income Taxes. Should any portion of the property division not be paid in full and/or the balance of the liabilities ordered to be paid by a party not be paid in full where the obligation is joint; and/or there is an agreement and/or order to hold the party harmless for the payment thereof; and/or income taxes are not paid in full where the obligation is joint; and/or there is an agreement to hold the party harmless for the payment thereof; at the death of a party, when any of the above obligations are not satisfied by life insurance, life insurance trust, will or any other security devise, the surviving party shall have a claim against the estate of the deceased party, including both probate and non-probate assets) for any monies due him/her under this Judgment and Decree.

23. SERVICE. Service of a copy of this Order shall be made by United States mail on Husband at his last known address, 15174 Dupont Path, Apple Valley, MN 55124, and upon Wife's attorneys, Laurie Mack-Wagner, Esq. and Calen E. King, Esq. of Mack & Santana Law Offices, P.C., 1850 South Fifth Street Towers, 150 South Fifth Street, Minneapolis, Minnesota 55402, which shall be the same in lieu of personal service on the parties.

24. DISCHARGE OF COUNSEL. Sixty-one (61) days after filing of this Judgment and Decree, all attorneys of record will be automatically discharged without further notice.

25. DOCUMENTS OF CONVEYANCE.

25.1. Unless specified otherwise in this Stipulated Judgment and Decree, within thirty (30) days of the entry of this Judgment and Decree herein, each party shall execute and deliver to the requesting party such assignments and other documents as may be necessary and required to fully effectuate each and all of the provisions contained herein; and in this connection, the party entitled to and/or requesting such assignments or other documents shall pay for any expenses incurred in the preparation thereof and shall also pay any and all recording and filing fees and all other attendant expenses. A certified copy of this Judgment and Decree of dissolution may be recorded and/or utilized with the same force and effect as if a deed, conveyance, transfer, assignment or other document had been

personally executed, acknowledged and delivered to that party. If a party refuses to cooperate, the other party shall be entitled to collect all reasonable attorneys' fees and other costs in connection with enforcement of this agreement and Judgment and Decree due to the failure of a party.

25.2. Unless specified otherwise in this Judgment and Decree, within thirty (30) days of a request by a party, the other party shall deliver to the requesting party all documents in that other party's possession relating to all assets in his/her possession and/or under his/her control which the requesting party has requested; for example, but without limitation, real estate transaction documents, warranty plans, instruction and maintenance booklets, titles and the like.

26. APPENDIX A. Provided that the terms are not inconsistent with the terms otherwise set forth in this Judgment and Decree, the attached Appendix A is incorporated and made a part of any Judgment and Decree entered.

27. ENTRY OF JUDGMENT AND DECREE. Entry of Judgment shall not be stayed pursuant to Rule 125 of the General Rules of Practice for the District Courts, but shall be entered immediately by the court administrator.

ORDER FOR JUDGMENT

NOTWITHSTANDING GEN. R. PRAC. 125, LET JUDGMENT BE ENTERED IMMEDIATELY.

BY THE COURT:

Dated: _____, 2024.

Honorable David L. Knutson
Judge of District Court

JUDGMENT

I hereby certify that the above Conclusions of Law constitute the Judgment and Decree of the Court.

Maria King
Dakota County Court Administrator

Dated: _____, 2024.

By: _____
Deputy

APPENDIX A

NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. PAYMENTS TO PUBLIC AGENCY. According to Minnesota Statutes, section 518A.50, payments ordered for maintenance and support must be paid to the Minnesota child support payment center as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. Parents mail payments to: P.O. Box 64326, St. Paul, MN 55164-0326. Employers mail payments to: P.O. Box 64306, St. Paul, MN 55164.

II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY. A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or parenting time rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any court administrator.

III. NONSUPPORT OF A SPOUSE OR CHILD – CRIMINAL PENALTIES. A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

IV. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME.

- A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.
- B. Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.
- C. Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.
- D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.
- E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.
- F. Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.
- G. *A Parental Guide to Making Child-Focused Parenting-Time Decisions* is available from any court administrator.
- H. The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

- I. The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of Minnesota Statutes, section 518A.40, subdivision 4, are met.
- J. The public authority may remove or resume a medical support offset if the conditions of section 518A.41, subdivision 16, are met.
- K. The public authority may suspend or resume interest charging on child support judgments if the conditions of section 548.091, subdivision 1a, are met.

V. MODIFYING CHILD SUPPORT. If either the obligor or obligee is laid off from employment or receives a pay reduction, child support may be modified, increased, or decreased. Any modification will only take effect when it is ordered by the court, and will only relate back to the time that a motion is filed. Either the obligor or obligee may file a motion to modify child support, and may request the public agency for help. UNTIL A MOTION IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.

VI. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

- A. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, police reports, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.
- B. Each party has the right to be informed by the other party as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.
- C. Each party has the right to be notified by the other party of an accident or serious illness of a minor child, including the name of the health care provider and the place of treatment.
- D. Each party has the right to be notified by the other party if the minor child is the victim of an alleged crime, including the name of the investigating law enforcement officer or agency. There is no duty to notify if the party to be notified is the alleged perpetrator.
- E. Each party has the right of reasonable access and telephone contact with the minor children.

VII. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE. Child support and / or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518A.53, have been met. A copy of that section is available from any court administrator.

VIII. CHANGE OF ADDRESS OR RESIDENCE. Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

IX. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE. Basic support and / or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using the U.S. Department of Labor, Bureau of Labor Statistics, consumer price index Mpls. St. Paul, for all urban consumers (CPI-U), unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518A.75, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary to request or contest a cost of living increase are available from any court administrator.

X. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. According to Minnesota Statutes, section 548.091:

- A. If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment **without notice** to the person responsible to make the payment.
- B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

XI. JUDGMENTS FOR UNPAID MAINTENANCE. A judgment for unpaid spousal maintenance may be entered and docketed when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any court administrator.

XII. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT. A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 518A.735, are met. A copy of that section and forms necessary to request or contest these attorney fees and collection costs are available from any court administrator.

XIII. PARENTING TIME EXPEDITOR PROCESS. On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any court administrator.

XIV. PARENTING TIME REMEDIES AND PENALTIES. Remedies and penalties for wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any court administrator.

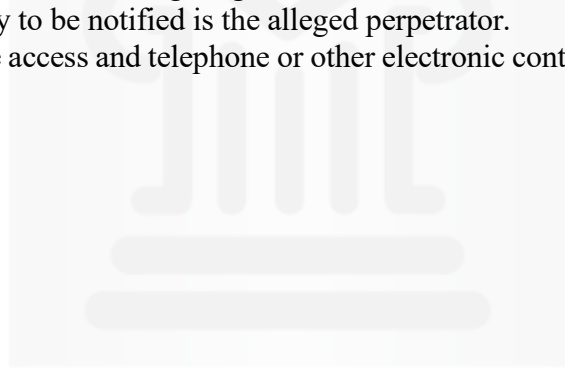
In addition to the Notices on pages 1 and 2, the following NOTICE applies to all orders addressing custody pursuant to Minn. Stat. § 518.17, subd. 3a.

NOTICE

EACH PARTY IS GRANTED THE FOLLOWING RIGHTS:

1. Right of access to, and to receive copies of, school, medical, dental, religious training, police reports, and other important records and information about the minor children.

2. Right of access to information regarding health or dental insurance available to the minor children.
3. Right to be informed by the other party as to the name and address of the school of attendance of the minor children.
4. Right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party, unless attending the same conference would result in violation of a court order prohibiting contact with a party.
5. Right to be notified by the other party of an accident or serious illness of a minor child, including the name of the health care provider and the place of treatment.
6. Right to be notified by the other party if the minor child is the victim of an alleged crime, including the name of the investigating law enforcement officer or agency. There is no duty to notify if the party to be notified is the alleged perpetrator.
7. Right to reasonable access and telephone or other electronic contact with the minor children.



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