

MAR 20, 2019 03:49 PM

  
Jody M. Higdon, Clerk  
Morgan County, Georgia

**IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA**

**TYLER PERRY,  
Petitioner,**

**v.**

**KAITLYN V. JENKINS,  
Respondent**

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\*  
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**CAFN: SUCA2018000030**

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**MOTION TO SUPPLEMENT THE RECORD**

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NOW COMES Petitioner, Tyler Perry, by and through his attorney, to move the Court to supplement the record with the attached affidavit and exhibits regarding the drafting of the Final Order, showing the following:

1.

The Final Hearing in the above-reference action was on October 29, 2018, at which time the Court instructed Respondent's attorney to draft a proposed final order, including the finding of fact, and share it with Petitioner's attorney. (Transcript, page 102) If the attorneys could not come to an agreement about the proposed final order, "we'll resume and [the Court] will decide what they are." (Transcript, page 102)

2.

The attorneys corresponded as provided in the attached Affidavit with Exhibits A, B, C, D, E and F attached. There was no further hearing(s) as to the findings of fact or the Final Order.

3.

This information has direct relevance to the final outcome of this action in this Court and the construction of the Final Order in this action and for that reason needs to be included in the record.

4.

If the Court chooses not to grant the Motion to Supplement the Record, then pursuant to O.C.G.A. § 5-6-41(h), Petitioner is entitled to have the Affidavit and attached Exhibits, with a notation of disallowance, to be filed with the Court and forwarded to the Court of Appeals to become part of the record.

5.

Petitioner accepts responsibility for the reasonable costs of supplementing the record.

WHEREFORE, Petitioner respectfully requests that the Court supplement the record of this proceeding to include the attached Affidavit with Exhibits, or if not granted, provide a Notice of Disallowance to be filed with the Affidavit with Exhibits such that the record is so supplemented.

Respectfully submitted this 19<sup>th</sup> day of March 2019.



Virginia Nell Morris  
Attorney for Tyler Perry  
GA Bar No. 334206

MORRIS LAW  
P.O. Box 7224  
Athens, Georgia 30604  
(706) 395-2592  
(706) 395-2593 (Fax)  
ginny@vnmorrislaw.com

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IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA

**TYLER PERRY,**  
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**Respondent**

**AFFIDAVIT**

STATE OF GEORGIA  
COUNTY OF CLARK

Personally appeared before me, the undersigned officer duly authorized to administer oaths, VIRGINIA NELL MORRIS, who, after having been sworn, deposes and says as follows:

That my name is Virginia Nell Morris.

That my address is 269 North Jackson St., Athens, Georgia 30601.

That I am over eighteen years of age.

That I am the attorney representing the Petitioner in the above-referenced action.

That the attached Exhibits A through F are emails between myself, the attorney for the Respondent and the Court, along with the documents which were attached to those emails regarding the drafting of the Final Order in the action.

That these are true and accurate copies of these emails and accompanying documents as they were transmitted to and by me on the dates and times specified in the headings of the emails.

Further Affiant sayeth not.

*Virginia Nell Morris*

Virginia Nell Morris  
Attorney for Tyler Perry  
GA Bar No. 334206

Sworn to and subscribed before me  
This 19<sup>th</sup> day of March 2019.

*[Signature]*  
Notary Public, State of Georgia  
My commission expires 3/27/2022.



# **EXHIBIT A**

## **Ginny Morris**

---

**From:** Brad Evans <brad@bje-law.com>  
**Sent:** Wednesday, October 31, 2018 10:15 AM  
**To:** Ginny Morris  
**Subject:** TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County  
**Attachments:** Final Order.pdf  
  
**Flag Status:** Flagged

Ms. Morris-

Attached to this email is the Final Order in the above-referenced matter for your review and comment. I would like to send this to Judge Prior no later than Friday. Please confirm that you have received this email.

Brad J. Evans  
Law Office of Brad J. Evans LLC  
271 West Washington Street, Suite 120  
P.O. Box 1361  
Madison, Georgia 30650  
phone: (706) 438-1091  
fax: (706) 395-4010

**IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA**

<b>TYLER PERRY,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL ACTION</b>
	)	<b>FILE NUMBER: SUCA2018000030</b>
<b>KAITLYN V. JENKINS,</b>	)	
	)	
<b>Respondent.</b>	)	
<hr style="border: 0.5px solid black;"/>		

**FINAL ORDER**

The above-referenced matter was set down for a bench trial on October 29, 2018. On that day, Petitioner/Father appeared with his counsel of record, Virginia Nell Morris and Respondent/Mother appeared with her counsel of record, Brad J. Evans. After hearing evidence from the parties and argument from counsel, the Court enters the following order:

**FINDINGS OF FACT**

1.

The parties had the following child out of wedlock: CARSON MICHAEL PERRY, male, born in 2015 (the "minor child").

2.

On December 12, 2017, an Order for Paternity and Child Support was issued by the Walton County Superior Court requiring Petitioner/Father to pay \$445.00 per month as child support for the minor child with the first payment due on February 1, 2018. See The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939, the final order in which was admitted as Petitioner's Exhibit 4 at trial.

3.

On February 15, 2018, Petitioner/Father filed his Petition for Legitimation, Custody, Visitation, and Child Support in the Morgan County Superior Court. Respondent/Mother acknowledged service on or around March 7, 2018 and filed her Answer to Petition for Legitimation, Custody, Visitation, and Child Support and Counterclaim to Establish Custody and Visitation on or around April 5, 2018.

4.

A temporary hearing was scheduled by Respondent/Mother for May 9, 2018. Respondent/Mother and her counsel of record appeared. Neither Petitioner/Father nor his counsel of record appeared. In the Temporary Order issued on May 9, 2018, CARSON MICHAEL PERRY, a male child born in 2015, was declared the legitimate child of Petitioner/Father/Father TYLER PERRY. In that same Temporary Order, Respondent/Mother was named the temporary primary physical custodian and Petitioner/Father was provided with every other weekend visitation. Petitioner's counsel of record later claimed that she did not receive notice of the temporary hearing but filed no motion to set aside the Temporary Order issued on that date and took no action to modify that Temporary Order.

5.

The following facts established at the bench trial held on October 29, 2018 provided a basis for the Court's Conclusions of Law:

- (a) Counsel of record for each party acknowledged and agreed that the bench trial was agreeable to resolve this matter and waived their respective rights to a jury trial.
- (b) On his side of the case, Petitioner/Father called as witnesses Respondent/Mother (for purposes of cross-examination), Petitioner/Father, Petitioner/Father's mother, and Petitioner/Father's wife. On her side of the case, Respondent/Mother called only herself as a witness.

- (c) The minor child has been in the custody and care of Respondent/Mother since his birth. The minor child was cared for by both Petitioner/Father and Respondent/Mother while they lived together. At some point prior to September, 2017, the parties separated and the minor child lived with Respondent/Mother at Respondent/Mother's parent's home. Petitioner/Father regularly had visitation with the minor child prior to the Temporary Order being issued but overnight stays with Petitioner/Father were rare for the minor child. Since the Temporary Order was issued, Petitioner/Father has had visitation with the minor child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. each day.
- (d) Respondent/Mother was primarily responsible for taking the minor child to doctor's appointments both while the parties lived together and after the parties lived together. Petitioner/Father occasionally attended these appointments.
- (e) Petitioner/Father lives in Watkinsville, Georgia. Respondent/Mother lives in Madison, Georgia. Travel to/from one another takes no less than 40 minutes. Both parties have stable living situations and suitable dwellings in which to raise the child.
- (f) Petitioner/Father and Respondent/Mother each stated that the other parent was a fit and proper parent. Neither Petitioner/Father nor Respondent/Mother had any witnesses state otherwise.
- (g) The minor child is intelligent, happy, well-behaved, and well cared for.

6.

Respondent's attorney presented evidence of the attorney's fees and expenses incurred by Respondent as a result of this action. Respondent's attorney stated that his hourly rate is \$275.00, he has practiced law for about 15 years, his hourly rate for his legal experience was appropriate and reasonable for this judicial circuit, that the work performed by him was reasonable and necessary in this case, and provided a detailed billing invoice in the amount of



\$3,455.30 and requested an additional 2 hours or \$550.00 in fees for the bench trial, which brought the total attorney's fees and expenses request to \$4,005.30. It should be noted that Respondent's attorney's detailed billing invoice was admitted without objection at trial as Respondent's Exhibit 1.

### **CONCLUSIONS OF LAW**

1.

The Court finds that it is in the best interests of the minor child that Respondent/Mother be the primary physical custodian of the minor child. The minor child has resided with Respondent/Mother since birth, has been primarily been in the care of Respondent/Mother since birth, and on all accounts, the minor child is flourishing. Petitioner/Father, Respondent/Mother, and Petitioner/Father's witnesses agreed that Petitioner/Father and Respondent/Mother were proper and fit parents. To remove the minor child from the environment and caregiver under which the minor child has been excelling would be contrary to the best interests of the minor child.

The Court reached this conclusion by applying the factors contained in O.C.G.A. § 19-9-3 to the foregoing facts. The following factors had a substantial impact on the Court's determination:

- (a) O.C.G.A. § 19-9-3(a)(3)(A). While there is love, affection, bonding, and emotional ties between each parent and the minor child, Respondent/Mother has lived with and cared for the minor child his entire life and to sever the bonding and ties between the two of them by changing custody would be detrimental to the minor child's best interests.
- (b) O.C.G.A. § 19-9-3(a)(3)(B). Respondent/Mother has demonstrated love, affection, and guidance for the minor child. The minor child is with the Respondent/Mother the

vast majority of the time and the evidence established that the child has learned his colors, numbers, letters, and shapes and reads regularly with Respondent/Mother.

- (c) O.C.G.A. § 19-9-3(a)(3)(D). Respondent/Mother has the greatest knowledge and familiarity with the minor child and the minor child's needs. Respondent/Mother has lived with and cared for the minor child his entire life. Respondent/Mother has taken the minor child to all of his medical appointments.
- (d) O.C.G.A. § 19-9-3(a)(3)(E). Respondent/Mother provided the minor child with food, clothing, medical care, day-to-day needs, and other necessary basic care, prior to child support payments being made and with the payment of the current child support obligation.
- (e) O.C.G.A. § 19-9-3(a)(3)(F). The home environment of each parent is a nurturing and safe environment.
- (f) O.C.G.A. § 19-9-3(a)(3)(G). The minor child has continuously lived with Respondent/Mother for his entire life. Respondent/Mother has maintained a stable, satisfactory environment during the minor child's entire life. The maintenance of this continuity in the child's life is paramount.
- (g) O.C.G.A. § 19-9-3(a)(3)(K). Petitioner/Father works approximately 40-48 hours per week. Respondent/Mother is currently unemployed and when she was employed, she worked part-time. Petitioner/Father's employment schedule severely limits his time available to his minor child. Respondent/Mother's schedule has no limitations of time for the minor child.

2.

- (a) The parties shall have joint legal custody with Respondent/Mother being the primary physical custodian of said child and Petitioner/Father having visitation with said child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. Said visitation shall began May

19, 2018 and continue every other weekend until the minor child reaches the age of five (5) years old, at which time the visitation schedule shall be as set forth in the Ocmulgee Judicial Circuit's Visitation schedule attached hereto as Exhibit "A". The parties shall also comply with the Standard Orders for Parenting attached hereto as Exhibit "B".

(b) While the parties shall have joint legal custody of the child for any and all purposes under Georgia and/or federal law, Respondent/Mother shall be designated as the primary physical custodian and Respondent/Mother's address shall be the minor child's legal address. The parties shall make a good faith attempt to resolve all issues affecting the child. In the event that an agreement cannot be reached, Respondent/Mother shall have final-decision making on all issues affecting the child.

3.

Petitioner shall be responsible for picking up and dropping off the minor child at Respondent/Mother's residence.

4.

(a) Child support shall remain as ordered by the Walton County Superior Court in The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939.

(b) Petitioner/Father shall continue to maintain health insurance coverage for the minor child. Petitioner/Father and Respondent/Mother shall each pay one-half (50%) of all non-covered, reasonable and necessary medical, dental, orthodontic, psychological, counseling, therapeutic, drug, hospitalization, or other health-related expenses of the children, including any deductible amounts, co-payments or other related expenses not covered by health insurance.

Petitioner/Father shall provide Respondent/Mother with a copy of all policies, booklets, identification cards, or other documents provided to him by the insurer. In the event either party pays all (100%) of any uncovered expense described above, such party shall provide proof of

such expense to the other party within 30 days of same, and the other party shall reimburse the paying party within 30 days of receipt of such receipt. Should insurance later reimburse a party for an expense that was previously divided by the parties, then all such reimbursements shall be equally divided.

5.

Respondent/Mother's attorney has requested an award of attorney's fees and expenses of litigation under O.C.G.A. § 19-9-3(g). The Court orders an award of attorney's fees and expenses in the amount of \$ \_\_\_\_\_. This award is based on the financial position of each of the parties as evidenced by the pleadings and the testimony at trial.

This \_\_\_\_ day of \_\_\_\_\_, 2018.

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William A. Prior, Judge  
Morgan County Superior Court  
Ocmulgee Judicial Circuit

# EXHIBIT A

## VISITATION

CP = Custodial Parent

NC = Non-custodial Parent

(Mother or Father should be inserted)

The NC shall have liberal periods of custody. If the parties cannot agree, then the following schedule shall control:

Visitation: The NC shall have visitation with the child every other weekend beginning Friday at 6:00 p.m. until Sunday at 6:00 p.m.

Summer: The NC shall have the child(ren) for two non-consecutive weeks during June or July, uninterrupted by the mother's visitation, provided that by May 1<sup>st</sup> of each year, the NC gives the CP written notice of when he/she intends to exercise the visitation.

Christmas: The CP shall have the minor child beginning the day after school recesses for Christmas holidays until December 26<sup>th</sup> at 9:00 a.m. during even numbered years. The NC shall have the same time for his/her visitation during odd number years. The CP shall have the minor child with him/her from December 26<sup>th</sup> beginning at 9:00 a.m. until January 2<sup>nd</sup> at 9:00 a.m. during odd numbered years. The NC shall have the same time during even numbered years.

Thanksgiving: In even-numbered years, the NC shall have the child(ren) from 6:00 p.m. on the day the child(ren) is/are released from school preceding Thanksgiving holiday until the Sunday following Thanksgiving Day at 6:00 p.m. The CP shall have the child during this time period during odd numbered years.

July 4<sup>th</sup>: The NC shall have the minor child during odd numbered years from July 4 at 9:00 a.m. until July 5 at 10:00 a.m. The CP shall have the minor child for this schedule during even numbered years.

Spring Break: The CP shall have the child during Spring Break from 6:00 p.m. on the day school recesses for Spring Break until 6:00 p.m. on the day before school resumes in odd numbered years. The NC shall have this time period in even numbered years.

Fall Break: The CP shall have the child during Fall Break from 6:00 p.m. on the day school recesses for Fall Break until 6:00 p.m. on the day before school resumes in even numbered years. The NC shall have this time period in odd numbered years.

Mother's Day: The mother shall have the child on the Friday preceding Mother's Day from 6:00 p.m. until Sunday at 6:00 p.m., regardless of the weekend visitation schedule.

Father's Day: The father shall have the child on the Friday preceding Father's Day from 6:00 p.m. until Sunday at 6:00 p.m., regardless of the weekend visitation schedule.

Federal Holidays: If the NC parent has the child for a weekend visitation where a federal holiday falls on a Monday, then the visitation shall include that Monday until 6:00 p.m.

General Considerations: The NC shall have the responsibility of transporting the child for each period of custody. The NC, or other responsible adult with a valid driver's license, shall pick the child up at the CP's residence at the beginning of the visitation and return the child to the CP's residence at the end of the visitation. During the summer visitation, the parent who is beginning his or her custodial period shall be responsible for picking up the child from the other parent's residence.

Revised 1/12/2017

# EXHIBIT B

## STANDARD ORDERS FOR PARENTING

1. Each parent shall always keep the other informed of his/her actual address of residence, mailing address if different, home and work telephone numbers and any changes within twenty-four hours of such change occurring.

2. Should either parent require child care for twenty-four hours or longer when the child is in his/her care, the other parent shall have first option to provide such care.

3. Neither parent shall say or do anything in the presence or hearing of the child that would in any way diminish the child's love or affection for the other parent, and shall not allow others to do so.

4. All former marital, child sharing, court related and financial communications between the parents shall occur at a time when the child is not present or within hearing range. Communication regarding these issues shall not occur at times of exchanges of the child or during telephone visits with the child.

5. Each parent shall inform the other as soon as possible of all school, sporting, and other special activity notices and cooperate in the child's consistent attendance at such events. Neither parent shall schedule activities during the other parent's scheduled parenting time without the other parent's prior agreement.

6. At least 24 hour notice of schedule change shall be given to the other parent. The parent requesting the change shall be responsible for any additional child care that results from the change.

7. The parties shall have the right to call the minor child on the telephone at any reasonable time, so long as the telephone calls to the child do not become excessive or disrupt the child's normal homework or sleep schedule. Likewise, the child shall have the right to call either parent at all reasonable times. In the event a long distance telephone call is required, the noncustodial parent shall provide a calling card for use by the child to place telephone calls to said parent. All parties will allow the child to have uninterrupted, private conversations with the parent and neither parent shall tape record the child's conversation with the other parent or other person. In the event that there is a dispute between the parties as to when a telephone call can be made, then calls from the parent shall be twice per week on Tuesday and Thursday evenings between the hours of 7:00 p.m. and 9:00 p.m.

8. Each party shall notify the other party as soon as reasonable of any serious illness or emergency affecting the child while in that party's physical custody.

9. Each party shall have the right to communicate with the child's teachers, coaches, tutors, and other educational providers; doctors, nurses, counselors, psychiatrists, and other health care providers; and to obtain copies of the child's school and medical records. Each party shall have the right to attend all school and extra-curriculum events, religious events of significance, graduation, recitals, award ceremonies, and other such events relating to the child.

Revised 1/12/2017



# **EXHIBIT B**

## **Ginny Morris**

---

**From:** Ginny Morris <ginny@vnmorrislaw.com>  
**Sent:** Friday, November 2, 2018 8:52 AM  
**To:** 'Brad Evans'  
**Subject:** RE: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Brad,

Any chance you could send me a Word version of this? It makes editing easier. I can convert it but that sometimes messes up the formatting.

Thanks,  
Ginny

Virginia Nell Morris  
Attorney  
Morris Law  
P.O. Box 7224  
Athens, Georgia 30604  
Phone: 706/395-2592  
Fax: 706/395-2593

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**From:** Brad Evans <brad@bje-law.com>  
**Sent:** Wednesday, October 31, 2018 10:15 AM  
**To:** Ginny Morris <ginny@vnmorrislaw.com>  
**Subject:** TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Ms. Morris-

Attached to this email is the Final Order in the above-referenced matter for your review and comment. I would like to send this to Judge Prior no later than Friday. Please confirm that you have received this email.

Brad J. Evans  
Law Office of Brad J. Evans LLC  
271 West Washington Street, Suite 120  
P.O. Box 1361  
Madison, Georgia 30650  
phone: (706) 438-1091  
fax: (706) 395-4010

## Ginny Morris

---

**From:** Brad Evans <brad@bje-law.com>  
**Sent:** Friday, November 2, 2018 10:11 AM  
**To:** Ginny Morris  
**Subject:** Re: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County  
**Attachments:** Final Order.docx

Sure. Here you go.

Brad J. Evans  
Law Office of Brad J. Evans LLC  
271 West Washington Street, Suite 120  
P.O. Box 1361  
Madison, Georgia 30650  
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**From:** Ginny Morris <ginny@vnmorrislaw.com>  
**Date:** Friday, November 2, 2018 at 8:52 AM  
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**IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA**

<b>TYLER PERRY,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL ACTION</b>
	)	<b>FILE NUMBER: SUCA2018000030</b>
<b>KAITLYN V. JENKINS,</b>	)	
	)	
<b>Respondent.</b>	)	
<hr style="width: 45%; margin-left: 0;"/>		

**FINAL ORDER**

The above-referenced matter was set down for a bench trial on October 29, 2018. On that day, Petitioner/Father appeared with his counsel of record, Virginia Nell Morris and Respondent/Mother appeared with her counsel of record, Brad J. Evans. After hearing evidence from the parties and argument from counsel, the Court enters the following order:

**FINDINGS OF FACT**

1.

The parties had the following child out of wedlock: CARSON MICHAEL PERRY, male, born in 2015 (the “minor child”).

2.

On December 12, 2017, an Order for Paternity and Child Support was issued by the Walton County Superior Court requiring Petitioner/Father to pay \$445.00 per month as child support for the minor child with the first payment due on February 1, 2018. See The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939, the final order in which was admitted as Petitioner’s Exhibit 4 at trial.

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5.

The following facts established at the bench trial held on October 29, 2018 provided a basis for the Court's Conclusions of Law:

- (a) Counsel of record for each party acknowledged and agreed that the bench trial was agreeable to resolve this matter and waived their respective rights to a jury trial.
- (b) On his side of the case, Petitioner/Father called as witnesses Respondent/Mother (for purposes of cross-examination), Petitioner/Father, Petitioner/Father's mother, and Petitioner/Father's wife. On her side of the case, Respondent/Mother called only herself as a witness.

- (c) The minor child has been in the custody and care of Respondent/Mother since his birth. The minor child was cared for by both Petitioner/Father and Respondent/Mother while they lived together. At some point prior to September, 2017, the parties separated and the minor child lived with Respondent/Mother at Respondent/Mother's parent's home. Petitioner/Father regularly had visitation with the minor child prior to the Temporary Order being issued but overnight stays with Petitioner/Father were rare for the minor child. Since the Temporary Order was issued, Petitioner/Father has had visitation with the minor child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. each day.
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- (e) Petitioner/Father lives in Watkinsville, Georgia. Respondent/Mother lives in Madison, Georgia. Travel to/from one another takes no less than 40 minutes. Both parties have stable living situations and suitable dwellings in which to raise the child.
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### **CONCLUSIONS OF LAW**

1.

The Court finds that it is in the best interests of the minor child that Respondent/Mother be the primary physical custodian of the minor child. The minor child has resided with Respondent/Mother since birth, has been primarily been in the care of Respondent/Mother since birth, and on all accounts, the minor child is flourishing. Petitioner/Father, Respondent/Mother, and Petitioner/Father's witnesses agreed that Petitioner/Father and Respondent/Mother were proper and fit parents. To remove the minor child from the environment and caregiver under which the minor child has been excelling would be contrary to the best interests of the minor child.

The Court reached this conclusion by applying the factors contained in O.C.G.A. § 19-9-3 to the foregoing facts. The following factors had a substantial impact on the Court's determination:

- (a) O.C.G.A. § 19-9-3(a)(3)(A). While there is love, affection, bonding, and emotional ties between each parent and the minor child, Respondent/Mother has lived with and cared for the minor child his entire life and to sever the bonding and ties between the two of them by changing custody would be detrimental to the minor child's best interests.
- (b) O.C.G.A. § 19-9-3(a)(3)(B). Respondent/Mother has demonstrated love, affection, and guidance for the minor child. The minor child is with the Respondent/Mother the



vast majority of the time and the evidence established that the child has learned his colors, numbers, letters, and shapes and reads regularly with Respondent/Mother.

- (c) O.C.G.A. § 19-9-3(a)(3)(D). Respondent/Mother has the greatest knowledge and familiarity with the minor child and the minor child's needs. Respondent/Mother has lived with and cared for the minor child his entire life. Respondent/Mother has taken the minor child to all of his medical appointments.
- (d) O.C.G.A. § 19-9-3(a)(3)(E). Respondent/Mother provided the minor child with food, clothing, medical care, day-to-day needs, and other necessary basic care, prior to child support payments being made and with the payment of the current child support obligation.
- (e) O.C.G.A. § 19-9-3(a)(3)(F). The home environment of each parent is a nurturing and safe environment.
- (f) O.C.G.A. § 19-9-3(a)(3)(G). The minor child has continuously lived with Respondent/Mother for his entire life. Respondent/Mother has maintained a stable, satisfactory environment during the minor child's entire life. The maintenance of this continuity in the child's life is paramount.
- (g) O.C.G.A. § 19-9-3(a)(3)(K). Petitioner/Father works approximately 40-48 hours per week. Respondent/Mother is currently unemployed and when she was employed, she worked part-time. Petitioner/Father's employment schedule severely limits his time available to his minor child. Respondent/Mother's schedule has no limitations of time for the minor child.

2.

(a) The parties shall have joint legal custody with Respondent/Mother being the primary physical custodian of said child and Petitioner/Father having visitation with said child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. Said visitation shall began May

19, 2018 and continue every other weekend until the minor child reaches the age of five (5) years old, at which time the visitation schedule shall be as set forth in the Ocmulgee Judicial Circuit's Visitation schedule attached hereto as Exhibit "A. The parties shall also comply with the Standard Orders for Parenting attached hereto as Exhibit "B".

(b) While the parties shall have joint legal custody of the child for any and all purposes under Georgia and/or federal law, Respondent/Mother shall be designated as the primary physical custodian and Respondent/Mother's address shall be the minor child's legal address. The parties shall make a good faith attempt to resolve all issues affecting the child. In the event that an agreement cannot be reached, Respondent/Mother shall have final-decision making on all issues affecting the child.

3.

Petitioner shall be responsible for picking up and dropping off the minor child at Respondent/Mother's residence.

4.

(a) Child support shall remain as ordered by the Walton County Superior Court in The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939.

(b) Petitioner/Father shall continue to maintain health insurance coverage for the minor child. Petitioner/Father and Respondent/Mother shall each pay one-half (50%) of all non-covered, reasonable and necessary medical, dental, orthodontic, psychological, counseling, therapeutic, drug, hospitalization, or other health-related expenses of the children, including any deductible amounts, co-payments or other related expenses not covered by health insurance.

Petitioner/Father shall provide Respondent/Mother with a copy of all policies, booklets, identification cards, or other documents provided to him by the insurer. In the event either party pays all (100%) of any uncovered expense described above, such party shall provide proof of

such expense to the other party within 30 days of same, and the other party shall reimburse the paying party within 30 days of receipt of such receipt. Should insurance later reimburse a party for an expense that was previously divided by the parties, then all such reimbursements shall be equally divided.

5.

Respondent/Mother's attorney has requested an award of attorney's fees and expenses of litigation under O.C.G.A. § 19-9-3(g). The Court orders an award of attorney's fees and expenses in the amount of \$\_\_\_\_\_. This award is based on the financial position of each of the parties as evidenced by the pleadings and the testimony at trial.

This \_\_\_\_ day of \_\_\_\_\_, 2018.

---

William A. Prior, Judge  
Morgan County Superior Court  
Ocmulgee Judicial Circuit

# **EXHIBIT C**

## Ginny Morris

---

**From:** Brad Evans <brad@bje-law.com>  
**Sent:** Friday, November 9, 2018 2:36 PM  
**To:** Ginny Morris  
**Subject:** Re: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County  
**Attachments:** Letter to Prior encl Final Order 110918.pdf

Ms. Morris-

See the attached Letter to Judge Prior and proposed Final Order. These documents were hand-delivered to his office today. The Final Order is slightly different from that which I forwarded you earlier.

I know that you are preparing your own version of the order so I would ask that you submit that to Judge Prior as soon as possible so we can bring this case to a conclusion. The quickest way to do would be to email the document to his assistant, Molly Bonner.

Have a great weekend.

Brad

Brad J. Evans  
Law Office of Brad J. Evans LLC  
271 West Washington Street, Suite 120  
P.O. Box 1361  
Madison, Georgia 30650  
phone: (706) 438-1091  
fax: (706) 395-4010

---

**From:** Ginny Morris <ginny@vnmorrislaw.com>  
**Date:** Friday, November 2, 2018 at 8:52 AM  
**To:** 'Brad Evans' <brad@bje-law.com>  
**Subject:** RE: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Brad,

Any chance you could send me a Word version of this? It makes editing easier. I can convert it but that sometimes messes up the formatting.

Thanks,  
Ginny

Virginia Nell Morris  
Attorney  
Morris Law  
P.O. Box 7224  
Athens, Georgia 30604  
Phone: 706/395-2592  
Fax: 706/395-2593

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confidentiality, including all privileges which may apply. Pursuant to those rights and privileges, immediately DELETE and DESTROY all copies of the email and its attachments, in whatever form, and immediately NOTIFY the sender of your receipt of this email. DO NOT review, copy, or rely on in any way the contents of this email and its attachments. All rights of the sender for violations of the confidentiality and privileges applicable to this email and any attachments are expressly reserved.

**From:** Brad Evans <brad@bje-law.com>

**Sent:** Wednesday, October 31, 2018 10:15 AM

**To:** Ginny Morris <ginny@vnmorrislaw.com>

**Subject:** TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Ms. Morris-

Attached to this email is the Final Order in the above-referenced matter for your review and comment. I would like to send this to Judge Prior no later than Friday. Please confirm that you have received this email.

Brad J. Evans

Law Office of Brad J. Evans LLC

271 West Washington Street, Suite 120

P.O. Box 1361

Madison, Georgia 30650

phone: (706) 438-1091

fax: (706) 395-4010

LAW OFFICE OF  
BRAD J. EVANS LLC

271 West Washington Street, Suite 120  
P.O. Box 1361  
Madison, Georgia 30650

706.438.1091 Telephone  
706.395.4010 Facsimile  
brad@bje-law.com Email  
www.bje-law.com Website

November 5, 2018

The Hon. William A. Prior, Jr.  
Superior Court of Morgan County, Georgia  
P.O. Box 728  
Madison, Georgia 30650

Re: Tyler Perry v. Kaitlyn Jenkins  
Morgan County Superior Court  
CAFN: 2018CA030

Dear Judge Prior:

Enclosed with this letter is my proposed Final Order in the above-referenced matter for your review and signature. I forwarded the proposed Final Order to opposing counsel on Wednesday, October 31, 2018. She responded by requesting the Word version of the Final Order so that she could make revisions. With that response, I assume that opposing counsel will be forwarding to you her own proposed Final Order.

As instructed by the Court after opposing counsel made the request, the proposed Final Order contains findings of fact. However, O.C.G.A. section 19-9-3(a)(8) provides that the trial court shall make findings of fact where any party "on or before the close of evidence in a contested hearing". There is no dispute that Petitioner's attorney made this request only after the trial court had ruled. Therefore, findings of fact are not required in this case. In light of this law, if the Court would like me to prepare an order without findings of fact, please let me know.

Sincerely,



Brad J. Evans

Law Office of Brad J. Evans LLC

Encl. (1)  
cc: Virginia Nell Morris

**IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA**

<b>TYLER PERRY,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL ACTION</b>
	)	<b>FILE NUMBER: SUCA2018000030</b>
<b>KAITLYN V. JENKINS,</b>	)	
	)	
<b>Respondent.</b>	)	
<hr style="border: 0.5px solid black;"/>		

**FINAL ORDER**

The above-referenced matter was set down for a bench trial on October 29, 2018. On that day, Petitioner/Father appeared with his counsel of record, Virginia Nell Morris and Respondent/Mother appeared with her counsel of record, Brad J. Evans. After hearing evidence from the parties and argument from counsel, the Court enters the following order:

**FINDINGS OF FACT**

1.

The parties had the following child out of wedlock: CARSON MICHAEL PERRY, male, born in 2015 (the "minor child").

2.

On December 12, 2017, an Order for Paternity and Child Support was issued by the Walton County Superior Court requiring Petitioner/Father to pay \$445.00 per month as child support for the minor child with the first payment due on February 1, 2018. See The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939, the final order in which was admitted as Pctitioner`s Exhibit 4 at trial.



3.

On February 15, 2018, Petitioner/Father filed his Petition for Legitimation, Custody, Visitation, and Child Support in the Morgan County Superior Court. Respondent/Mother acknowledged service on or around March 7, 2018 and filed her Answer to Petition for Legitimation, Custody, Visitation, and Child Support and Counterclaim to Establish Custody and Visitation on or around April 5, 2018. Legitimation of the minor child was never contested.

4.

A temporary hearing was scheduled by Respondent/Mother for May 9, 2018. Respondent/Mother and her counsel of record appeared. Neither Petitioner/Father nor his counsel of record appeared. In the Temporary Order issued on May 9, 2018, CARSON MICHAEL PERRY, a male child born in 2015, was declared the legitimate child of Petitioner/Father/Father TYLER PERRY. In that same Temporary Order, Respondent/Mother was named the temporary primary physical custodian and Petitioner/Father was provided with every other weekend visitation. Petitioner's counsel of record later claimed that she did not receive notice of the temporary hearing but filed no motion to set aside the Temporary Order issued on that date and took no action to modify that Temporary Order.

5.

The following facts established at the bench trial held on October 29, 2018 provided a basis for the Court's Conclusions of Law:

- (a) Counsel of record for each party acknowledged and agreed that the bench trial was agreeable to resolve this matter and waived their respective rights to a jury trial.
- (b) On his side of the case, Petitioner/Father called as witnesses Respondent/Mother (for purposes of cross-examination), Petitioner/Father, Petitioner/Father's mother, and Petitioner/Father's wife. On her side of the case, Respondent/Mother called only herself as a witness.

- (c) The minor child has been in the custody and care of Respondent/Mother since his birth. The minor child was cared for by both Petitioner/Father and Respondent/Mother while they lived together. At some point prior to September, 2017, the parties separated and the minor child lived with Respondent/Mother at Respondent/Mother's parent's home. Petitioner/Father regularly had visitation with the minor child prior to the Temporary Order being issued but overnight stays with Petitioner/Father were rare for the minor child. Since the Temporary Order was issued, Petitioner/Father has had visitation with the minor child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. each day.
- (d) Respondent/Mother was primarily responsible for taking the minor child to doctor's appointments both while the parties lived together and after the parties lived together. Petitioner/Father occasionally attended these appointments.
- (e) Petitioner/Father lives in Watkinsville, Georgia. Respondent/Mother lives in Madison, Georgia. Travel to/from one another takes no less than 40 minutes. Both parties have stable living situations and suitable dwellings in which to raise the child.
- (f) Petitioner/Father and Respondent/Mother each stated that the other parent was a fit and proper parent. Neither Petitioner/Father nor Respondent/Mother had any witnesses state otherwise.
- (g) The minor child is intelligent, happy, well-behaved, and well cared for.

6.

Respondent's attorney presented evidence of the attorney's fees and expenses incurred by Respondent as a result of this action. Respondent's attorney stated that his hourly rate is \$275.00. he has practiced law for about 15 years, his hourly rate for his legal experience was appropriate and reasonable for this judicial circuit, that the work performed by him was reasonable and necessary in this case. and provided a detailed billing invoice in the amount of

\$3,455.30 and requested an additional 2 hours or \$550.00 in fees for the bench trial, which brought the total attorney's fees and expenses request to \$4,005.30. It should be noted that Respondent's attorney's detailed billing invoice was admitted without objection at trial as Respondent's Exhibit 1.

7.

After the close the evidence and after each party had made closing arguments, the Court ruled that Respondent should be the primary physical custodian of the minor child with visitation rights for Petitioner. After the Court ruled, Petitioner's attorney requested that the Court make findings of fact in support of its order.

#### **CONCLUSIONS OF LAW**

1.

The Court finds that it is in the best interests of the minor child that Respondent/Mother be the primary physical custodian of the minor child. The minor child has resided with Respondent/Mother since birth, has been primarily been in the care of Respondent/Mother since birth, and on all accounts, the minor child is flourishing. Petitioner/Father, Respondent/Mother, and Petitioner/Father's witnesses agreed that Petitioner/Father and Respondent/Mother were proper and fit parents. To remove the minor child from the environment and caregiver under which the minor child has been excelling would be contrary to the best interests of the minor child.

The Court reached this conclusion by applying the factors contained in O.C.G.A. § 19-9-3 to the foregoing facts. The following factors had a substantial impact on the Court's determination:

- (a) O.C.G.A. § 19-9-3(a)(3)(A). While there is love, affection, bonding, and emotional ties between each parent and the minor child, Respondent/Mother has lived with and cared for the minor child his entire life and to sever the bonding and ties between the

two of them by changing custody would be detrimental to the minor child's best interests.

- (b) O.C.G.A. § 19-9-3(a)(3)(B). Respondent/Mother has demonstrated love, affection, and guidance for the minor child. The minor child is with the Respondent/Mother the vast majority of the time and the evidence established that the child has learned his colors, numbers, letters, and shapes and reads regularly with Respondent/Mother.
- (c) O.C.G.A. § 19-9-3(a)(3)(D). Respondent/Mother has the greatest knowledge and familiarity with the minor child and the minor child's needs. Respondent/Mother has lived with and cared for the minor child his entire life. Respondent/Mother has taken the minor child to all of his medical appointments.
- (d) O.C.G.A. § 19-9-3(a)(3)(E). Respondent/Mother provided the minor child with food, clothing, medical care, day-to-day needs, and other necessary basic care, prior to child support payments being made and with the payment of the current child support obligation.
- (e) O.C.G.A. § 19-9-3(a)(3)(F). The home environment of each parent is a nurturing and safe environment.
- (f) O.C.G.A. § 19-9-3(a)(3)(G). The minor child has continuously lived with Respondent/Mother for his entire life. Respondent/Mother has maintained a stable, satisfactory environment during the minor child's entire life. The maintenance of this continuity in the child's life is paramount.
- (g) O.C.G.A. § 19-9-3(a)(3)(K). Petitioner/Father works approximately 40-48 hours per week. Respondent/Mother is currently unemployed and when she was employed, she worked part-time. Petitioner/Father's employment schedule severely limits his time available to his minor child. Respondent/Mother's schedule has no limitations of time for the minor child.

2.

(a) The parties shall have joint legal custody with Respondent/Mother being the primary physical custodian of said child and Petitioner/Father having visitation with said child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. Said visitation shall began May 19, 2018 and continue every other weekend until the minor child reaches the age of five (5) years old, at which time the visitation schedule shall be as set forth in the Ocmulgee Judicial Circuit's Visitation schedule attached hereto as Exhibit "A. The parties shall also comply with the Standard Orders for Parenting attached hereto as Exhibit "B".

(b) While the parties shall have joint legal custody of the child for any and all purposes under Georgia and/or federal law, Respondent/Mother shall be designated as the primary physical custodian and Respondent/Mother's address shall be the minor child's legal address. The parties shall make a good faith attempt to resolve all issues affecting the child. In the event that an agreement cannot be reached, Respondent/Mother shall have final-decision making on all issues affecting the child.

3.

Petition shall be responsible for picking up and dropping off the minor child at Respondent/Mother's residence.

4.

(a) Child support shall remain as ordered by the Walton County Superior Court in The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939.

(b) Petitioner/Father shall continue to maintain health insurance coverage for the minor child. Petitioner/Father and Respondent/Mother shall each pay one-half (50%) of all non-covered, reasonable and necessary medical, dental, orthodontic, psychological, counseling,

therapeutic, drug, hospitalization, or other health-related expenses of the children, including any deductible amounts, co-payments or other related expenses not covered by health insurance.

Petitioner/Father shall provide Respondent/Mother with a copy of all policies, booklets, identification cards, or other documents provided to him by the insurer. In the event either party pays all (100%) of any uncovered expense described above, such party shall provide proof of such expense to the other party within 30 days of same, and the other party shall reimburse the paying party within 30 days of receipt of such receipt. Should insurance later reimburse a party for an expense that was previously divided by the parties, then all such reimbursements shall be equally divided.

5.

Respondent/Mother's attorney has requested an award of attorney's fees and expenses of litigation under O.C.G.A. § 19-9-3(g). The Court orders an award of attorney's fees and expenses in the amount of \$\_\_\_\_\_. This award is based on the financial position of each of the parties as evidenced by the pleadings and the testimony at trial. This amount should be paid to Respondent/Mother's attorney no later than 90 days from the date of this Final Order.

This \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
William A. Prior, Judge  
Morgan County Superior Court  
Ocmulgee Judicial Circuit

# EXHIBIT A

## VISITATION

CP = Custodial Parent

NC = Non-custodial Parent

(Mother or Father should be inserted)

The NC shall have liberal periods of custody. If the parties cannot agree, then the following schedule shall control:

Visitation: The NC shall have visitation with the child every other weekend beginning Friday at 6:00 p.m. until Sunday at 6:00 p.m.

Summer: The NC shall have the child(ren) for two non-consecutive weeks during June or July, uninterrupted by the mother's visitation, provided that by May 1<sup>st</sup> of each year, the NC gives the CP written notice of when he/she intends to exercise the visitation.

Christmas: The CP shall have the minor child beginning the day after school recesses for Christmas holidays until December 26<sup>th</sup> at 9:00 a.m. during even numbered years. The NC shall have the same time for his/her visitation during odd number years. The CP shall have the minor child with him/her from December 26<sup>th</sup> beginning at 9:00 a.m. until January 2<sup>nd</sup> at 9:00 a.m. during odd numbered years. The NC shall have the same time during even numbered years.

Thanksgiving: In even-numbered years, the NC shall have the child(ren) from 6:00 p.m. on the day the child(ren) is/are released from school preceding Thanksgiving holiday until the Sunday following Thanksgiving Day at 6:00 p.m. The CP shall have the child during this time period during odd numbered years.

July 4<sup>th</sup>: The NC shall have the minor child during odd numbered years from July 4 at 9:00 a.m. until July 5 at 10:00 a.m. The CP shall have the minor child for this schedule during even numbered years.

Spring Break: The CP shall have the child during Spring Break from 6:00 p.m. on the day school recesses for Spring Break until 6:00 p.m. on the day before school resumes in odd numbered years. The NC shall have this time period in even numbered years.

Fall Break: The CP shall have the child during Fall Break from 6:00 p.m. on the day school recesses for Fall Break until 6:00 p.m. on the day before school resumes in even numbered years. The NC shall have this time period in odd numbered years.

Mother's Day: The mother shall have the child on the Friday preceding Mother's Day from 6:00 p.m. until Sunday at 6:00 p.m., regardless of the weekend visitation schedule.

Father's Day: The father shall have the child on the Friday preceding Father's Day from 6:00 p.m. until Sunday at 6:00 p.m., regardless of the weekend visitation schedule.

Federal Holidays: If the NC parent has the child for a weekend visitation where a federal holiday falls on a Monday, then the visitation shall include that Monday until 6:00 p.m.

General Considerations: The NC shall have the responsibility of transporting the child for each period of custody. The NC, or other responsible adult with a valid driver's license, shall pick the child up at the CP's residence at the beginning of the visitation and return the child to the CP's residence at the end of the visitation. During the summer visitation, the parent who is beginning his or her custodial period shall be responsible for picking up the child from the other parent's residence.

Revised 1/12/2017



# EXHIBIT B

## STANDARD ORDERS FOR PARENTING

1. Each parent shall always keep the other informed of his/her actual address of residence, mailing address if different, home and work telephone numbers and any changes within twenty-four hours of such change occurring.

2. Should either parent require child care for twenty-four hours or longer when the child is in his/her care, the other parent shall have first option to provide such care.

3. Neither parent shall say or do anything in the presence or hearing of the child that would in any way diminish the child's love or affection for the other parent, and shall not allow others to do so.

4. All former marital, child sharing, court related and financial communications between the parents shall occur at a time when the child is not present or within hearing range. Communication regarding these issues shall not occur at times of exchanges of the child or during telephone visits with the child.

5. Each parent shall inform the other as soon as possible of all school, sporting, and other special activity notices and cooperate in the child's consistent attendance at such events. Neither parent shall schedule activities during the other parent's scheduled parenting time without the other parent's prior agreement.

6. At least 24 hour notice of schedule change shall be given to the other parent. The parent requesting the change shall be responsible for any additional child care that results from the change.

7. The parties shall have the right to call the minor child on the telephone at any reasonable time, so long as the telephone calls to the child do not become excessive or disrupt the child's normal homework or sleep schedule. Likewise, the child shall have the right to call either parent at all reasonable times. In the event a long distance telephone call is required, the noncustodial parent shall provide a calling card for use by the child to place telephone calls to said parent. All parties will allow the child to have uninterrupted, private conversations with the parent and neither parent shall tape record the child's conversation with the other parent or other person. In the event that there is a dispute between the parties as to when a telephone call can be made, then calls from the parent shall be twice per week on Tuesday and Thursday evenings between the hours of 7:00 p.m. and 9:00 p.m.

8. Each party shall notify the other party as soon as reasonable of any serious illness or emergency affecting the child while in that party's physical custody.

9. Each party shall have the right to communicate with the child's teachers, coaches, tutors, and other educational providers; doctors, nurses, counselors, psychiatrists, and other health care providers; and to obtain copies of the child's school and medical records. Each party shall have the right to attend all school and extra-curriculum events, religious events of significance, graduation, recitals, award ceremonies, and other such events relating to the child.

Revised 1/12/2017

# **EXHIBIT D**

## Ginny Morris

---

**From:** Ginny Morris <ginny@vnmorrislaw.com>  
**Sent:** Monday, November 12, 2018 1:04 PM  
**To:** 'Brad Evans'  
**Subject:** RE: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County  
**Attachments:** DRAFT Final Order EDITED 11-9-18.docx

Brad,

This is not what the judge instructed us to do. He said to circulate the order and attempt to come to an agreement. I have been editing the order you sent to include what I believe is closer to the evidence presented. I was going to send that edited order to you on Friday but got stuck in court all day.

I am attaching it now if you would like to negotiate a final order, as the judge instructed us to attempt. Otherwise, I will submit an order separately.

Ginny

Virginia Nell Morris  
Attorney  
Morris Law  
P.O. Box 7224  
Athens, Georgia 30604  
Phone: 706/395-2592  
Fax: 706/395-2593

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**Subject:** Re: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Ms. Morris-

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I know that you are preparing your own version of the order so I would ask that you submit that to Judge Prior as soon as possible so we can bring this case to a conclusion. The quickest way to do would be to email the document to his assistant, Molly Bonner.

Have a great weekend.

Brad

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fax: (706) 395-4010

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**Date:** Friday, November 2, 2018 at 8:52 AM  
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**Subject:** RE: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Brad,

Any chance you could send me a Word version of this? It makes editing easier. I can convert it but that sometimes messes up the formatting.

Thanks,  
Ginny

Virginia Nell Morris  
Attorney  
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P.O. Box 7224  
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---

**From:** Brad Evans <[brad@bje-law.com](mailto:brad@bje-law.com)>  
**Sent:** Wednesday, October 31, 2018 10:15 AM  
**To:** Ginny Morris <[ginny@vnmorrislaw.com](mailto:ginny@vnmorrislaw.com)>  
**Subject:** TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Ms. Morris-

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P.O. Box 1361  
Madison, Georgia 30650  
phone: (706) 438-1091  
fax: (706) 395-4010

IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA

TYLER PERRY,	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL ACTION</b>
	)	<b>FILE NUMBER: SUCA2018000030</b>
KAITLYN V. JENKINS,	)	
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

The above-referenced matter was set down for a bench trial on October 29, 2018. On that day, Petitioner/Father appeared with his counsel of record, Virginia Nell Morris and Respondent/Mother appeared with her counsel of record, Brad J. Evans. After hearing evidence from the parties and argument from counsel, the Court enters the following order:

**FINDINGS OF FACT**

1.

The parties had the following child out of wedlock: CARSON MICHAEL PERRY, male, born in 2015 (the “minor child”).

2.

On December 12, 2017, an Order for Paternity and Child Support was issued by the Walton County Superior Court requiring Petitioner/Father to pay \$445.00 per month as child support for the minor child with the first payment due on February 1, 2018. See The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939, the final order in which was admitted as Petitioner/**Father**'s Exhibit 4 at trial.

3.

On February 15, 2018, Petitioner/Father filed his Petition for Legitimation, Custody, Visitation, and Child Support in the Morgan County Superior Court. Respondent/Mother acknowledged service on or around March 7, 2018 and filed her Answer to Petition for Legitimation, Custody, Visitation, and Child Support and Counterclaim to Establish Custody and Visitation on or around April 5, 2018.

4.

A temporary hearing was scheduled by Respondent/Mother for May 9, 2018. Respondent/Mother and her counsel of record appeared. Neither Petitioner/Father nor his counsel of record appeared. In the Temporary Order issued on May 9, 2018, CARSON MICHAEL PERRY, a male child born in 2015, was declared the legitimate child of Petitioner/Father/~~Father~~ TYLER PERRY. In that same Temporary Order, Respondent/Mother was named the temporary primary physical custodian and Petitioner/Father was provided with every other weekend visitation from 9:00 a.m. until 5:00 p.m. Saturday and Sunday. Petitioner/~~Father~~'s counsel of record ~~later claimed~~stated that ~~neither she nor her client did not~~ receive notice of the temporary hearing, ~~but~~ Petitioner/Father filed no motion to set aside the Temporary Order issued on that date and took no action to modify that Temporary Order.

5.

The following facts established at the bench trial held on October 29, 2018 provided a basis for the Court's Conclusions of Law:

- (a) Counsel of record for each party acknowledged and agreed that the bench trial was agreeable to resolve this matter and waived their respective rights to a jury trial.
- (b) On his side of the case, Petitioner/Father called as witnesses Respondent/Mother (for purposes of cross-examination), Petitioner/Father, Petitioner/Father's mother, Sharon

Bates, and Petitioner/Father's wife, Rachel Perry. On her side of the case,

Respondent/Mother called only herself as a witness.

- (c) The minor child has been in the custody and care of Respondent/Mother since his birth. The minor child was cared for by both Petitioner/Father and Respondent/Mother while they lived together. At some point prior to September 2017, the parties separated and the minor child lived with Respondent/Mother at Respondent/Mother's parent's home. Petitioner/Father ~~regularly~~ had regular and frequent visitation with the minor child prior to September 2017, but overnight stays with Petitioner/Father were rarely permitted. In September 2017, Respondent/Mother discovered that Petitioner/Father had a girlfriend, Rachel Lawrence, now Rachel Perry, who was spending time with him and the child. The parties had a verbal agreement that they would not have the child around other men or women unless the parent was in a serious relationship with that person. There was no inquiry by Respondent/Mother to Petitioner/Father nor information provided from the Petitioner/Father to Respondent/Mother as to the seriousness of this relationship. At that time, Respondent/Mother began limiting Petitioner/Father's time with the child to daytime visits one day on some weekends, even though Petitioner/Father requested weekly for more time with the child. the Temporary Order being issued but overnight stays with Petitioner/Father were rare for the minor child. Since the Temporary Order was issued, Petitioner/Father has had visitation with the minor child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. each day.
- (d) Respondent/Mother was primarily responsible for taking the minor child to doctor's appointments both while the parties lived together and after the parties lived together. Petitioner/Father ~~occasionally~~ attended these appointments as his work schedule permitted when Respondent/Mother informed him of the appointments.



- (c) Petitioner/Father lives in Watkinsville, Georgia. Respondent/Mother lives in Madison, Georgia. Travel to/from one another takes no less than 40 minutes. The Petitioner/Father has a two bedroom/one bath home which she shares with his wife and at which the child has his own furnished room. Respondent/Mother lives with her parents, boyfriend, baby and grandmother in a three-bedroom home and the child shares a room with the grandmother. Both parties have stable living situations and suitable dwellings in which to raise the child.
- (f) Petitioner/Father is employed at Price Pipeline, earning \$16.00 per hour full time with the option of overtime occasionally, for a total of approximately \$2,773.00 gross income per month. Respondent/Mother is not currently employed, having gone on maternity leave on August 10, 2018 from her part time job at Little Caesar's. She is given \$300.00 per month by her parents for cleaning and performing other household chores. She also receives WIC and the child support from Petitioner/Father of \$445.00 per month. Respondent/Mother relies on her boyfriend and parents to provide support for her and her children.
- (g) On at least two occasions, there was domestic violence between the parties, where Respondent/Mother was the aggressor and hit the Petitioner/Father. There were no charges filed.
- (e)(h) Respondent/Mother gave birth to a child with her current boyfriend on September 5, 2018. Petitioner/Father and his wife are expecting their first child in January 2019.
- (f)(i) Petitioner/Father and Respondent/Mother each stated that the other parent was a fit and proper parent. Neither Petitioner/Father nor Respondent/Mother had any witnesses state otherwise.
- (e)(j) The minor child is ~~intelligent~~ happy, well-behaved, and well cared for by both of his parents.

6.

~~Respondent~~Respondent/Mother's attorney presented evidence of the attorney's fees and expenses incurred by ~~Respondent~~Respondent/Mother as a result of this action.

~~Respondent~~Respondent/Mother's attorney stated that his hourly rate is \$275.00, he has practiced law for about 15 years, his hourly rate for his legal experience was appropriate and reasonable for this judicial circuit, that the work performed by him was reasonable and necessary in this case, and provided a detailed billing invoice in the amount of \$3,455.30 and requested an additional 2 hours or \$550.00 in fees for the bench trial, which brought the total attorney's fees and expenses request to \$4,005.30. It should be noted that ~~Respondent~~Respondent/Mother's attorney's detailed billing invoice was admitted ~~without-over~~ objection at trial as ~~Respondent~~Respondent/Mother's Exhibit 1.

#### CONCLUSIONS OF LAW

I.

The Court finds that it is in the best interests of the minor child that Respondent/Mother be the primary physical custodian of the minor child. The minor child has resided with Respondent/Mother since birth, has been primarily been in the care of Respondent/Mother since birth, and on all accounts, the minor child is flourishing. Petitioner/Father, Respondent/Mother, and Petitioner/Father's witnesses agreed that Petitioner/Father and Respondent/Mother were proper and fit parents. To remove ~~a small the minor~~-child from ~~his mother, the child's primary caregiver his entire life, the environment and caregiver under which the minor child has been~~ ~~excelling~~-would be contrary to the best interests of the minor child.

The Court reached this conclusion by applying the factors contained in O.C.G.A. § 19-9-3 to the foregoing facts. The following factors had a substantial impact on the Court's determination:

(a) O.C.G.A. § 19-9-3(a)(3)(A). ~~While~~ There is love, affection, bonding, and emotional ties between each parent and the minor child. Respondent/Mother has ~~lived~~ spent more time with and cared for the minor child his entire life, while Petitioner/Father has been a visiting parent since the relationship with the Respondent/Mother ended in late spring 2017. ~~and to sever the bonding and ties between the two of them by changing custody would be detrimental to the minor child's best interests.~~

(b) O.C.G.A. § 19-9-3(a)(3)(B). Respondent/Mother has demonstrated love, affection, and guidance for the minor child. The minor child is with the Respondent/Mother the vast majority of the time and the evidence established that the child has learned his colors, numbers, letters, and shapes and reads regularly with Respondent/Mother.

Commented [VNM1]: (B) is about siblings, not parents.

(c) O.C.G.A. § 19-9-3(a)(3)(C). Both parents have the capacity and disposition to give the child love, affection and guidance, although Petitioner/Father is in a better financial situation to provide educational services for the child going forward.

(d) O.C.G.A. § 19-9-3(a)(3)(D). Respondent/Mother has the greater ~~st~~ knowledge and familiarity with ~~the minor child and~~ the minor child's needs. Respondent/Mother has lived with and cared for the minor child his entire life. Respondent/Mother has taken the minor child to all of his medical appointments, although Petitioner/Father attended as he could when he knew of the appointments.

(e) O.C.G.A. § 19-9-3(a)(3)(E). Respondent/Mother's boyfriend and parents provided the minor child with food, clothing, medical care, day-to-day needs, and other necessary basic care, ~~prior~~ with some assistance from Petitioner/Father prior to child support payments being made and with the payment of the current child support obligation. However, the capacity and disposition of the father to provide for the child's necessary basic care and beyond that basic care is superior to that of the mother.

(e)(f) O.C.G.A. § 19-9-3(a)(3)(F). The home environment of each parent is a nurturing and safe environment.

(+)(g) O.C.G.A. § 19-9-3(a)(3)(G). The minor child has continuously lived with Respondent/Mother for his entire life and lived with both parents the first two years of his life. Respondent/Mother has maintained a stable, satisfactory environment during the minor child's entire life, moved at least three times since separating from Petitioner/Father, living with her parents and grandmother at the previous residences and adding her boyfriend to the residents of the current home. Petitioner/Father is living in his own house, where he moved to from his parent's home that he was sharing with Respondent/Mother. The maintenance of this continuity/stability in the child's life is paramount.

(h) O.C.G.A. § 19-9-3(a)(3)(K)(H). Petitioner/Father has secured the stability of his family unit by marriage with his wife, while the Respondent/Mother is in an uncommitted relationship with her second child's father. Both parents enjoy support of their extended families.

(i) O.C.G.A. § 19-9-3(a)(3)(I). Respondent/Mother suffered from post-partum depression after the birth of her first child and overdosed on her anti-depressants requiring a hospital visit. She is current taking a maintenance dose of Zoloft, the same anti-depressant, to prevent post-partum depression with the birth of her second child.

(j) O.C.G.A. § 19-9-3(a)(3)(J). Prior to their separation, the parents engaged together with the child at family social events, as they do now with their individual families.

(k) O.C.G.A. § 19-9-3(a)(3)(K). Petitioner/Father works approximately 40-48 hours per week. Respondent/Mother is currently unemployed and when she was employed, she worked part-time. Petitioner/Father's employment schedule severely limits his direct

care time available ~~to~~for ~~his~~the minor child, but when he is not available.

Respondent/Mother's schedule has no limitations of time for the minor child.

(g)(1) O.C.G.A. § 19-9-3(a)(3)(N-). Petitioner/Father has a willingness and ability to facilitate and encourage a close and continuing relationship between the child and Respondent/Mother, consistent with the best interests of the child, while Respondent/Mother has severely limited Petitioner/Father's access to the child after September 2017 and requested a visitation schedule in the Temporary Hearing that continued to limit Petitioner/Father's access to the child, not consistent with the best interests of the child.

2.

(a) The parties shall have joint legal custody with Respondent/Mother being the primary physical custodian of said child and Petitioner/Father having visitation with said child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. Said visitation shall began May 19, 2018 and continue every other weekend until the minor child reaches the age of five (5) years old, at which time the visitation schedule shall be as set forth in the Ocmulgee Judicial Circuit's Visitation schedule attached hereto as Exhibit "A". The parties shall also comply with the Standard Orders for Parenting attached hereto as Exhibit "B".

(b) While the parties shall have joint legal custody of the child for any and all purposes under Georgia and/or federal law, Respondent/Mother shall be designated as the primary physical custodian and Respondent/Mother's address shall be the minor child's legal address. The parties shall make a good faith attempt to resolve all issues affecting the child. In the event that an agreement cannot be reached, Respondent/Mother shall have final-decision making on all issues affecting the child.

3.

**Commented [VNM2]:** I disagree that any of this "had a substantial impact on the Court's determination". He made none of these findings and I think this should be removed. However, in the alternative, I have edited this to more accurately reflect the evidence.

Petitioner/Father shall be responsible for picking up and dropping off the minor child at Respondent/Mother's residence.

4.

(a) Child support shall remain as ordered by the Walton County Superior Court in The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939.

(b) Petitioner/Father shall continue to maintain health insurance coverage for the minor child. Petitioner/Father and Respondent/Mother shall each pay one-half (50%) of all non-covered, reasonable and necessary medical, dental, orthodontic, psychological, counseling, therapeutic, drug, hospitalization, or other health-related expenses of the children, including any deductible amounts, co-payments or other related expenses not covered by health insurance.

Petitioner/Father shall provide Respondent/Mother with a copy of all policies, booklets, identification cards, or other documents provided to him by the insurer. In the event either party pays all (100%) of any uncovered expense described above, such party shall provide proof of such expense to the other party within 30 days of same, and the other party shall reimburse the paying party within 30 days of receipt of such ~~receipt~~proof. Should insurance later reimburse a party for an expense that was previously divided by the parties, then all such reimbursements shall be equally divided.

5.

Respondent/Mother's attorney has requested an award of attorney's fees and expenses of litigation under O.C.G.A. § 19-9-3(g). The Court orders an award of attorney's fees and expenses in the amount of \$ \_\_\_\_\_. This award is based on the financial position of each of the parties as evidenced by the pleadings and the testimony at trial.

This \_\_\_\_ day of \_\_\_\_\_, 2018.

**William A. Prior, Judge  
Morgan County Superior Court  
Ocmulgee Judicial Circuit**

# **EXHIBIT E**



## **Ginny Morris**

---

**From:** Brad Evans <brad@bje-law.com>  
**Sent:** Monday, November 12, 2018 1:22 PM  
**To:** Ginny Morris  
**Subject:** Re: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

I sent you a copy of my proposed order. I told you I was looking to get that order to Judge Prior on Friday, November 2<sup>nd</sup>. Per your request, I sent you a Word document of the proposed order to make it easier for you to mark up. I received no response by November 9<sup>th</sup>, a week after my self-imposed deadline, so I delivered my proposed order to Judge Prior and notified you of same. So, I did circulate the order. I didn't receive a response in a reasonable time so I submitted mine.

My order contains the evidence that was presented and the court likely relied on to reach its ruling. I would suggest you submit your competing order to Judge Prior. I have reviewed it and I do not see us reaching any common ground. He may sign either one of our orders as is or he may ask that they be changed in certain respects.

Brad J. Evans  
Law Office of Brad J. Evans LLC  
271 West Washington Street, Suite 120  
P.O. Box 1361  
Madison, Georgia 30650  
phone: (706) 438-1091  
fax: (706) 395-4010

---

**From:** Ginny Morris <ginny@vnmorrislaw.com>  
**Date:** Monday, November 12, 2018 at 1:03 PM  
**To:** 'Brad Evans' <brad@bje-law.com>  
**Subject:** RE: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Brad,

This is not what the judge instructed us to do. He said to circulate the order and attempt to come to an agreement. I have been editing the order you sent to include what I believe is closer to the evidence presented. I was going to send that edited order to you on Friday but got stuck in court all day.

I am attaching it now if you would like to negotiate a final order, as the judge instructed us to attempt. Otherwise, I will submit an order separately.

Ginny

Virginia Nell Morris  
Attorney  
Morris Law  
P.O. Box 7224  
Athens, Georgia 30604  
Phone: 706/395-2592  
Fax: 706/395-2593

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whatever form, and immediately NOTIFY the sender of your receipt of this email. DO NOT review, copy, or rely on in any way the contents of this email and its attachments. All rights of the sender for violations of the confidentiality and privileges applicable to this email and any attachments are expressly reserved.

**From:** Brad Evans <[brad@bje-law.com](mailto:brad@bje-law.com)>  
**Sent:** Friday, November 9, 2018 2:36 PM  
**To:** Ginny Morris <[ginny@vnmorrislaw.com](mailto:ginny@vnmorrislaw.com)>  
**Subject:** Re: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Ms. Morris-

See the attached Letter to Judge Prior and proposed Final Order. These documents were hand-delivered to his office today. The Final Order is slightly different from that which I forwarded you earlier.

I know that you are preparing your own version of the order so I would ask that you submit that to Judge Prior as soon as possible so we can bring this case to a conclusion. The quickest way to do would be to email the document to his assistant, Molly Bonner.

Have a great weekend.

Brad

Brad J. Evans  
Law Office of Brad J. Evans LLC  
271 West Washington Street, Suite 120  
P.O. Box 1361  
Madison, Georgia 30650  
phone: (706) 438-1091  
fax: (706) 395-4010

---

**From:** Ginny Morris <[ginny@vnmorrislaw.com](mailto:ginny@vnmorrislaw.com)>  
**Date:** Friday, November 2, 2018 at 8:52 AM  
**To:** 'Brad Evans' <[brad@bje-law.com](mailto:brad@bje-law.com)>  
**Subject:** RE: TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Brad,

Any chance you could send me a Word version of this? It makes editing easier. I can convert it but that sometimes messes up the formatting.

Thanks,  
Ginny

Virginia Nell Morris  
Attorney  
Morris Law  
P.O. Box 7224  
Athens, Georgia 30604  
Phone: 706/395-2592  
Fax: 706/395-2593

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**From:** Brad Evans <[brad@bje-law.com](mailto:brad@bje-law.com)>

**Sent:** Wednesday, October 31, 2018 10:15 AM

**To:** Ginny Morris <[ginny@vnmorrislaw.com](mailto:ginny@vnmorrislaw.com)>

**Subject:** TYLER PERRY v. KAITLYN JENKINS, Superior Court of Morgan County

Ms. Morris-

Attached to this email is the Final Order in the above-referenced matter for your review and comment. I would like to send this to Judge Prior no later than Friday. Please confirm that you have received this email.

Brad J. Evans

Law Office of Brad J. Evans LLC

271 West Washington Street, Suite 120

P.O. Box 1361

Madison, Georgia 30650

phone: (706) 438-1091

fax: (706) 395-4010

# **EXHIBIT F**

## **Ginny Morris**

---

**From:** Ginny Morris <ginny@vnmorrislaw.com>  
**Sent:** Tuesday, November 13, 2018 7:30 AM  
**To:** bonnerm@eighthdistrict.org  
**Cc:** Brad Evans  
**Subject:** Draft Order, Perry v Jenkins CAFN SUCA2018000030  
**Attachments:** LETTER - DRAFT ORDER.pdf; PETITIONER'S DRAFT ORDER .pdf

Ms. Bonner,

Please see attached Letter and Draft Order and provide it to Judge Prior. I am also mailing a hard copy.

Thank you,  
Ginny Morris

Virginia Nell Morris  
Attorney  
Morris Law  
P.O. Box 7224  
Athens, Georgia 30604  
Phone: 706/395-2592  
Fax: 706/395-2593

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Morris Law

---

November 12, 2018

The Honorable William A. Prior, Jr.  
PO Box 728  
Madison, GA 30650-0728

*via U.S. Mail and email c/o Molly Bonner at  
bonnerm@eighthdistrict.org.*

**RE: Tyler Perry v. Kaitlyn Jenkins  
CAFN SUCA2018000030  
Legitimation, Custody, Visitation and Child Support**

Dear Judge Prior,

Please find enclosed a draft Final Judgment and Decree for the above-referenced case as you requested. While I attempted to work with Respondent's counsel to come to an agreement as to a draft Order, I was not able to meet his time constraints. He has already submitted his draft order.

I am also filed a Request for Findings of Fact and Conclusions of Law Pursuant to O.C.G.A. § 9-11-52, citing *Payson v. Payson*, 275 Ga. 231 (2001), which should resolve any concern as to whether such findings and conclusions should be included in the Final Order.

Please do not hesitate to contact me at 706/395-2592 or [ginny@vnmorrislaw.com](mailto:ginny@vnmorrislaw.com) if you have any questions or concerns about this submission. Thank you for your time and attention to this matter.

Sincerely,

Virginia Nell Morris  
Attorney for Tyler Perry

Enclosure

CC: Brad Evans, via email at [brad@bje-law.com](mailto:brad@bje-law.com)

**IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA**

**TYLER PERRY,**

**Petitioner,**

**vs.**

**KAITLYN V. JENKINS,**

**Respondent.**

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\*

**CIVIL ACTION  
FILE NUMBER: SUCA2018000030**

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**FINAL JUDGMENT AND DECREE**

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The above-referenced matter was scheduled for a bench trial on October 29, 2018. On that day, Petitioner appeared with his counsel of record, Virginia Nell Morris and Respondent appeared with her counsel of record, Brad J. Evans. After hearing evidence from the parties and argument from counsel, the Court enters the following order:

**FINDINGS OF FACT**

1.

The parties are the parents of the minor child, Carson Michael Perry, male, born in 2015 (the "minor child"), born out of wedlock.

2.

On December 12, 2017, an Order for Paternity and Child Support was issued by the Walton County Superior Court requiring Petitioner to pay \$445.00 per month as child support for the minor child with the first payment due on February 1, 2018. See The Georgia Department of Human Services, ex. rel.. Carson Michael Perry v. Tyler Scott Perry, Walton County Superior

Court, Civil Action File Number 2017-SU-CV-1939, the final order of which was admitted as Petitioner's Exhibit 4 at trial.

3.

On February 15, 2018, Petitioner filed a Petition for Legitimation, Custody, Visitation, and Child Support in the Morgan County Superior Court. Respondent acknowledged service on or around March 7, 2018 and filed her Answer to Petition for Legitimation, Custody, Visitation, and Child Support and Counterclaim to Establish Custody and Visitation on or around April 5, 2018.

4.

A temporary hearing was scheduled by Respondent for May 9, 2018. Respondent and her counsel of record appeared. Neither Petitioner nor his counsel of record appeared. In the Temporary Order issued on May 9, 2018, Carson Michael Perry, a male child born in 2015, was declared the legitimate child of Petitioner Tyler Perry. In that same Temporary Order, Respondent was named the temporary primary physical custodian and Petitioner was provided with visitation every other weekend from 9:00 a.m. until 5:00 p.m. Saturday and Sunday. Petitioner's counsel of record stated that neither she nor her client received notice of the temporary hearing. Petitioner filed no motion to set aside the Temporary Order issued on that date and took no action to modify that Temporary Order.

5.

The following facts established at the bench trial held on October 29, 2018 provided a basis for the Court's Conclusions of Law:

- (a) Counsel of record for each party acknowledged and agreed that the bench trial was agreeable to resolve this matter and waived their respective rights to a jury trial.



- (b) On his side of the case, Petitioner called as witnesses Respondent (for purposes of cross-examination), Petitioner, Petitioner's mother, Sharon Bates, and Petitioner's wife, Rachel Perry. On her side of the case, Respondent called only herself as a witness.
- (c) The minor child has been in the custody and care of Respondent since his birth. The minor child was in the custody and cared for by both Petitioner and Respondent while they lived together from before the child's birth until they separated at some point prior to September 2017. After the parties separated, the minor child lived with Respondent at Respondent's parent's home. Petitioner had regular and frequent visitation with the minor child prior to September 2017, but overnight stays with Petitioner were rarely permitted by Respondent. In September 2017, Respondent discovered that Petitioner had a girlfriend, Rachel Lawrence, now Rachel Perry, who was spending time with him and the child. The parties had a verbal agreement when they separated that they would not have the child around other significant others unless the parent was in a serious relationship with that person. There was no inquiry or information on the part of either party to determine the seriousness of this relationship. At that time, Respondent began limiting Petitioner's time with the child to daytime visits one day on some weekends, even though Petitioner requested weekly for more time with the child. Since the Temporary Order was issued, Petitioner has had visitation with the minor child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. each day, which he has exercised.
- (d) Respondent was primarily responsible for taking the minor child to doctor's appointments both while the parties lived together and after the parties separated.

Petitioner attended these appointments as his work schedule permitted when Respondent informed him of the appointments.

- (e) Petitioner lives in Watkinsville, Georgia. Respondent lives in Madison, Georgia. Travel to/from one another takes 35 to 40 minutes. The Petitioner has a two bedroom/one bath home which she shares with his wife and at which the child has his own furnished room. Respondent lives with her parents, boyfriend, baby and grandmother in a three-bedroom home and the child shares a room with the grandmother.
- (f) Petitioner is employed at Price Pipeline, earning \$16.00 per hour full time with the option of overtime occasionally, for a total of approximately \$2,773.00 gross income per month. Respondent is not currently employed, having gone on maternity leave on August 10, 2018 from her part time job at Little Caesar's Pizza store. She is given \$300.00 per month by her parents for cleaning and performing other household chores. She also receives WIC and the child support from Petitioner of \$445.00 per month. Respondent relies on her boyfriend and parents to provide support for her and her children.
- (g) On at least two occasions, there was domestic violence between the parties, where Respondent was the aggressor and hit the Petitioner. There were no charges filed.
- (h) Respondent gave birth to a child with her current boyfriend on September 5, 2018. Petitioner and his wife are expecting their first child in January 2019.
- (i) Petitioner and Respondent each stated that the other parent was a fit and proper parent. Neither Petitioner nor Respondent had any witnesses state otherwise.
- (j) The minor child is happy, well-behaved, and well cared for by both of his parents.

Respondent's attorney presented evidence of the attorney's fees and expenses incurred by Respondent as a result of this action. Respondent's attorney stated that his hourly rate is \$275.00, he has practiced law for about 15 years, his hourly rate for his legal experience was appropriate and reasonable for this judicial circuit, that the work performed by him was reasonable and necessary in this case, and provided a detailed billing invoice in the amount of \$3,455.30 and requested an additional 2 hours or \$550.00 in fees for the bench trial, which brought the total attorney's fees and expenses request to \$4,005.30. Respondent's attorney's detailed billing invoice was admitted over objection at trial as Respondent's Exhibit 1.

### **CONCLUSIONS OF LAW**

1.

The Court finds that it is in the best interests of the minor child that Respondent be the primary physical custodian of the minor child. The minor child has resided with Respondent since birth, has been primarily been in the care of Respondent since birth, and on all accounts, the minor child is flourishing. Petitioner, Respondent, and Petitioner's witnesses agreed that Petitioner and Respondent were proper and fit parents. To remove a small child from his mother, the child's primary caregiver his entire life, would be contrary to the best interests of the minor child.

2.

(a) The parties shall have joint legal custody with Respondent being the primary physical custodian of said child and Petitioner having visitation with said child every other Saturday and Sunday from 9:00 a.m. to 5:00 p.m. Said visitation shall began May 19, 2018 and continue every other weekend until the minor child reaches the age of five (5) years old, at which time the standard visitation schedule shall be as set forth in the Ocmulgee Judicial Circuit's

Visitation schedule attached hereto as Exhibit "A. The parties shall also comply with the Standard Orders for Parenting attached hereto as Exhibit "B".

(b) While the parties shall have joint legal custody of the child for any and all purposes under Georgia and/or federal law, Respondent shall be designated as the primary physical custodian and Respondent's address shall be the minor child's legal address. The parties shall make a good faith attempt to resolve all issues affecting the child. In the event that an agreement cannot be reached, Respondent shall have final-decision making on all issues affecting the child.

3.

Petitioner shall be responsible for picking up and dropping off the minor child at Respondent's residence.

4.

(a) Child support shall remain as ordered by the Walton County Superior Court in The Georgia Department of Human Services, ex. rel., Carson Michael Perry v. Tyler Scott Perry, Walton County Superior Court, Civil Action File Number 2017-SU-CV-1939.

(b) Petitioner shall continue to maintain health insurance coverage for the minor child. Petitioner and Respondent shall each pay one-half (50%) of all non-covered, reasonable and necessary medical, dental, orthodontic, psychological, counseling, therapeutic, drug, hospitalization, or other health-related expenses of the children, including any deductible amounts, co-payments or other related expenses not covered by health insurance.

Petitioner shall provide Respondent with a copy of all policies, booklets, identification cards, or other documents provided to him by the insurer. In the event either party pays all (100%) of any uncovered expense described above, such party shall provide proof of such expense to the other party within 30 days of same, and the other party shall reimburse the paying party within 30 days of receipt of such proof. Should insurance later reimburse a party for an

expense that was previously divided by the parties, then all such reimbursements shall be equally divided.

5.

Respondent's request for an award of attorney's fees and expenses of litigation under O.C.G.A. § 19-9-3(g) is denied.

This \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
William A. Prior, Judge  
Morgan County Superior Court  
Ocmulgee Judicial Circuit

# EXHIBIT A

## VISITATION

CP Custodial Parent

NC Non-custodial Parent

(Mother or Father should be inserted)

The NC shall have liberal periods of custody. If the parties cannot agree, then the following schedule shall control:

Visitation: The NC shall have visitation with the child every other weekend beginning Friday at 6:00 p.m. until Sunday at 6:00 p.m.

Summer: The NC shall have the child(ren) for two non-consecutive weeks during June or July, uninterrupted by the mother's visitation, provided that by May 1<sup>st</sup> of each year, the NC gives the CP written notice of when he/she intends to exercise the visitation.

Christmas: The CP shall have the minor child beginning the day after school recesses for Christmas holidays until December 26<sup>th</sup> at 9:00 a.m. during even numbered years. The NC shall have the same time for his/her visitation during odd number years. The CP shall have the minor child with him/her from December 26<sup>th</sup> beginning at 9:00 a.m. until January 2<sup>nd</sup> at 9:00 a.m. during odd numbered years. The NC shall have the same time during even numbered years.

Thanksgiving: In even-numbered years, the NC shall have the child(ren) from 6:00 p.m. on the day the child(ren) is/are released from school preceding Thanksgiving holiday until the Sunday following Thanksgiving Day at 6:00 p.m. The CP shall have the child during this time period during odd numbered years.

July 4<sup>th</sup>: The NC shall have the minor child during odd numbered years from July 4 at 9:00 a.m. until July 5 at 10:00 a.m. The CP shall have the minor child for this schedule during even numbered years.

Spring Break: The CP shall have the child during Spring Break from 6:00 p.m. on the day school recesses for Spring Break until 6:00 p.m. on the day before school resumes in odd numbered years. The NC shall have this time period in even numbered years.

Fall Break: The CP shall have the child during Fall Break from 6:00 p.m. on the day school recesses for Fall Break until 6:00 p.m. on the day before school resumes in even numbered years. The NC shall have this time period in odd numbered years.

Mother's Day: The mother shall have the child on the Friday preceding Mother's Day from 6:00 p.m. until Sunday at 6:00 p.m., regardless of the weekend visitation schedule.

Father's Day: The father shall have the child on the Friday preceding Father's Day from 6:00 p.m. until Sunday at 6:00 p.m., regardless of the weekend visitation schedule.

Federal Holidays: If the NC parent has the child for a weekend visitation where a federal holiday falls on a Monday, then the visitation shall include that Monday until 6:00 p.m.

General Considerations: The NC shall have the responsibility of transporting the child for each period of custody. The NC, or other responsible adult with a valid driver's license, shall pick the child up at the CP's residence at the beginning of the visitation and return the child to the CP's residence at the end of the visitation. During the summer visitation, the parent who is beginning his or her custodial period shall be responsible for picking up the child from the other parent's residence.

Revised 1/12/2017

# EXHIBIT B



## STANDARD ORDERS FOR PARENTING

1. Each parent shall always keep the other informed of his/her actual address of residence, mailing address if different, home and work telephone numbers and any changes within twenty-four hours of such change occurring.

2. Should either parent require child care for twenty-four hours or longer when the child is in his/her care, the other parent shall have first option to provide such care.

3. Neither parent shall say or do anything in the presence or hearing of the child that would in any way diminish the child's love or affection for the other parent, and shall not allow others to do so.

4. All former marital, child sharing, court related and financial communications between the parents shall occur at a time when the child is not present or within hearing range. Communication regarding these issues shall not occur at times of exchanges of the child or during telephone visits with the child.

5. Each parent shall inform the other as soon as possible of all school, sporting, and other special activity notices and cooperate in the child's consistent attendance at such events. Neither parent shall schedule activities during the other parent's scheduled parenting time without the other parent's prior agreement.

6. At least 24 hour notice of schedule change shall be given to the other parent. The parent requesting the change shall be responsible for any additional child care that results from the change.

7. The parties shall have the right to call the minor child on the telephone at any reasonable time, so long as the telephone calls to the child do not become excessive or disrupt the child's normal homework or sleep schedule. Likewise, the child shall have the right to call either parent at all reasonable times. In the event a long distance telephone call is required, the noncustodial parent shall provide a calling card for use by the child to place telephone calls to said parent. All parties will allow the child to have uninterrupted, private conversations with the parent and neither parent shall tape record the child's conversation with the other parent or other person. In the event that there is a dispute between the parties as to when a telephone call can be made, then calls from the parent shall be twice per week on Tuesday and Thursday evenings between the hours of 7:00 p.m. and 9:00 p.m.

8. Each party shall notify the other party as soon as reasonable of any serious illness or emergency affecting the child while in that party's physical custody.

9. Each party shall have the right to communicate with the child's teachers, coaches, tutors, and other educational providers; doctors, nurses, counselors, psychiatrists, and other health care providers; and to obtain copies of the child's school and medical records. Each party shall have the right to attend all school and extra-curriculum events, religious events of significance, graduation, recitals, award ceremonies, and other such events relating to the child.

Revised 1-12-2017

MAR 20, 2019 03:49 PM

  
Jody M. Higdon, Clerk  
Morgan County, Georgia

IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA

**TYLER PERRY,**  
**Petitioner,**

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v.

\*

CAFN: SUCA2018000030

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**KAITLYN V. JENKINS,**  
**Respondent**

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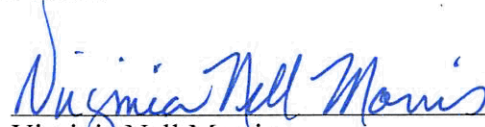
**CERTIFICATE OF SERVICE**

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This is to certify that I have, as of the date set forth below, served a copy of the MOTION TO SUPPLEMENT THE RECCORD and AFFIDAVIT, on Respondent, via her attorney, by way of PeachCourt and to the address listed below, by depositing it in first class U.S. Mail with proper postage affixed thereon:

Brad Evans  
271 W Washington St  
Ste 120  
Madison, Georgia 30650

Respectfully submitted this 19<sup>th</sup> day of March 2019.



Virginia Nell Morris  
Attorney for Tyler Perry  
GA Bar No. 334206

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