

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. 43,647

**IN THE MATTER OF
THE MARRIAGE OF**

**ALLISON GELBE-PINKUS
AND
MARK PINKUS**

**AND IN THE INTEREST OF
TODD PINKUS, THOMAS PINKUS
AND LUCY PINKUS, CHILDREN**

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IN THE DISTRICT COURT

510TH JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

ORIGINAL COUNTER-PETITION FOR DIVORCE

1. Discovery Level

Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

2. Parties

This suit is brought by Mark Pinkus, Counter-Petitioner. The last three numbers of Mark Pinkus's driver's license number are 782. The last three numbers of Mark Pinkus's Social Security number are 998.

Allison Gelbe-Pinkus is Counter-Respondent.

3. Domicile

Counter-Respondent has been a domiciliary of Texas for the preceding six-month period and a resident of this county for the preceding ninety-day period.

4. Service

Service of this document may be had in accordance with Rule 21a, Texas Rules of Civil Procedure, by serving Counter-Respondent's attorney of record, Christopher K. Wrampelmeier, Hays, Haston & Wrampelmeier, 1850 Sycamore Street, Denton, Texas 76025.

5. Protective Order Statement

No protective order under title 4 of the Texas Family Code, protective order under Chapter 7A of the Texas Code of Criminal Procedure, or order for emergency protection under Article 17.292 of the Texas Code of Criminal Procedure is in effect in regard to a party to this suit or a child of a party to this suit and no application for any such order is pending.

6. *Dates of Marriage and Separation*

The parties were married on or about December 27, 2008 and ceased to live together as spouses on or about June 1, 2018.

7. *Grounds for Divorce*

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

8. *Children of the Marriage*

Counter-Petitioner and Counter-Respondent are parents of the following children of this marriage who are not under the continuing jurisdiction of any other court:

Name: Todd Pinkus

Sex: Male

Birth date: March 1, 2013

Name: Thomas Pinkus

Sex: Male

Birth date: March 1, 2013

Name: Lucy Pinkus

Sex: Female

Birth date: November 1, 2018

There are no court-ordered conservatorships, court-ordered guardianships, or other court-ordered relationships affecting the children the subject of this suit, other than the appointment of the parties as joint managing conservators of the children.

Counter-Petitioner previously filed the information required by section 152.209 of the Texas Family Code.

Texas only has jurisdiction over Lucy Pinkus to make a child custody determination under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Counter-Petitioner's requests regarding the children apply only to Lucy Pinkus unless the courts in Texas and California determine that Texas has exclusive jurisdiction of all three children, in which case Counter-Petitioner's requests apply to all three children. Counter-Petitioner concedes that Texas has jurisdiction under the Uniform Interstate Family Support Act (UIFSA).

Counter-Petitioner previously filed the information required by section 154.181(b) and section 154.1815 of the Texas Family Code.

No property of consequence is owned or possessed by the children the subject of this suit, beyond savings accounts established for college tuition.

Counter-Petitioner and Counter-Respondent, on final hearing, should be appointed joint managing conservators, with all the rights and duties of a parent conservator. Counter-Petitioner should be designated as the conservator who has the exclusive rights to designate the primary residence of the children without regard to geographic location, to receive and give receipt for periodic payments for the support of the children and to hold or disburse these funds for the benefit of the children, and to make education decisions for the children. Counter-Respondent should be ordered to provide support for the children, including the payment of child support and medical and dental support in the manner specified by the Court. Counter-Petitioner requests that the payments for the support of the children survive the death of Counter-Respondent and become the obligations of Counter-Respondent's estate.

9. *Premarital Agreement*

Counter-Petitioner and Counter-Respondent entered into a premarital agreement altering their marital property rights in certain property on and during their marriage. A copy of the agreement is attached to this pleading as Exhibit 1. Counter-Petitioner requests the Court to enforce the agreement and divide the marital estate in accordance with its terms.

10. *Division of Community Estate, if any*

Under the premarital agreement, the parties agreed that no community estate would exist. If one is found to exist, Counter-Petitioner believes Counter-Petitioner and Counter-Respondent will enter into an agreement for the division of their community estate. If such an agreement is made, Counter-Petitioner requests the Court to approve the agreement and divide their community estate in a manner consistent with the agreement. If such an agreement is not made, Counter-Petitioner requests the Court to divide their community estate in a manner that the Court deems just and right, as provided by law.

11. *Separate Property*

Counter-Petitioner owns certain separate property that is not part of the community estate of the parties, and Counter-Petitioner requests the Court to confirm that separate property as Counter-Petitioner's separate property and estate.

12. *Request for Temporary Orders Regarding Children*

Counter-Petitioner requests the Court, after notice and hearing, to dispense with the necessity of a bond and to make temporary orders and issue any appropriate temporary injunctions for the safety and welfare of the children of the marriage as deemed necessary and equitable, including but not limited to the following:

Appointing Counter-Petitioner and Counter-Respondent temporary joint managing conservators, and designating Counter-Petitioner as the conservator who has the exclusive rights to designate the primary residence of the children without regard to geographic location, to receive and give receipt for periodic payments for the support of the children and to hold or disburse these funds for the benefit of the children, and to make education decisions for the children.

Ordering Counter-Respondent to provide support for the children, including the payment child support and medical and dental support in the manner specified by the Court, while this case is pending.

Ordering reasonable periods of electronic communication between the children and the Counter-Petitioner to supplement the Counter-Petitioner's periods of possession of the children.

Ordering the psychological evaluation of Counter-Respondent.

13. Request for Temporary Orders for Discovery and Ancillary Relief

Counter-Petitioner requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders for discovery and ancillary relief as deemed necessary and equitable, including but not limited to the following:

Ordering Counter-Respondent to provide a sworn inventory and appraisal of all the separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties substantially in the form and detail prescribed by the *Texas Family Law Practice Manual* (3d ed.), form 7-1.

Ordering Counter-Respondent to execute all necessary releases, including all releases pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and 45 C.F.R. section 164.508, required by Counter-Petitioner to obtain any discovery allowed by the Texas Rules of Civil Procedure.

Ordering Counter-Respondent to execute all necessary releases pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and 45 C.F.R. section 164.508 to permit Counter-Petitioner to obtain health-care information regarding the children.

Ordering Counter-Respondent to execute for all health-care providers of the children an authorization for disclosure of protected health information to Counter-Petitioner pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and 45 C.F.R. section 164.508.

Ordering Counter-Respondent to designate Counter-Petitioner as a person to whom protected health information regarding the children may be disclosed whenever Counter-Respondent executes an authorization for disclosure of protected health information pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and 45 C.F.R. section 164.508.

14. Notice Regarding Standing Order of Denton County, Texas

Counter-Petitioner acknowledges that, effective January 11, 2017, the Denton County District Courts have issued the Denton County Standing Order Regarding Children, Property and Conduct of the Parties (the "Standing Order"), which applies in every divorce case and every suit affecting the parent-child relationship filed in Denton County, Texas. A true and correct copy of this Standing Order is attached as Exhibit 1 to this counter-petition.

15. *Attorney's Fees, Expenses, Costs, and Interest*

It was necessary for Counter-Petitioner to secure the services of the law firm of Tisdale, Indelicato & Key, licensed attorneys, to prepare and prosecute this suit. To effect an equitable division of the estate of the parties and as a part of the division, and for services rendered in connection with conservatorship and support of the children, judgment for attorney's fees, expenses, and costs through trial and appeal should be granted against Counter-Respondent and in favor of Counter-Petitioner for the use and benefit of Counter-Petitioner's attorneys and be ordered paid directly to Counter-Petitioner's attorneys, who may enforce the judgment in the name of the law firm. Counter-Petitioner requests postjudgment interest as allowed by law.

16. *Prayer*

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

Counter-Petitioner prays for attorney's fees, expenses, costs, and interest as requested above.

Counter-Petitioner prays for general relief.

Respectfully submitted,

Cindy V. Tisdale
Tisdale, Indelicato & Key
227 Oak Street, Suite 1200
Denton, Texas 76201
Tel: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: Cindy@TIK.com

By: /s/ Cindy V. Tisdale
Cindy V. Tisdale
State Bar No. 00792700
Attorney for Counter-Petitioner

Certificate of Service

I certify that a true copy of the above was served on Christopher K. Wrampelmeier through the electronic filing manager in accordance with the Texas Rules of Civil Procedure on January 16, 2019.

/s/Cindy V. Tisdale
Cindy V. Tisdale
Attorney for Counter-Petitioner

EXHIBIT 1

DENTON COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES

THIS DENTON COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES IS BINDING ON (1) THE PARTIES, (2) THE PARTIES' OFFICERS, AGENTS, SERVANTS, EMPLOYEES, AND ATTORNEYS, AND (3) ANY OTHER PERSON WHO ACTS IN CONCERT WITH THE PARTIES OR THEIR AGENTS AND WHO RECEIVES ACTUAL NOTICE OF THESE ORDERS, AND IS ENFORCEABLE BY CONTEMPT, INCLUDING A FINE OF UP TO \$500, CONFINEMENT IN THE COUNTY JAIL FOR SIX MONTHS, OR BOTH SUCH A FINE AND CONFINEMENT IN JAIL FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

No party to this lawsuit has requested this order. Rather, this order is a standing order of the Denton County District Courts that applies in every divorce suit and every suit affecting the parent-child relationship, including a suit for modification or enforcement of a prior order, filed in Denton County, Texas. The Denton County District Courts have adopted this order pursuant to Texas Family Code §§6.501-6.503, 105.001, and 105.009 because the parties and their children should be protected and their property preserved while the lawsuit is pending before the court. IT IS THEREFORE ORDERED:

1. **NO DISRUPTION OF CHILDREN.** All parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this cause:

- 1.1 Removing the children from the State of Texas for the purpose of changing the children's domicile or residence, acting directly or in concert with others, without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from so removing the children if an active prior court order gives that party the right to designate the children's primary residence outside the State of Texas or without regard to geographic location.
- 1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from so withdrawing the children from a school or day-care facility if that party is changing the children's domicile or residence within that party's rights pursuant to an active prior court order as described in §1.1 above.
- 1.3 Hiding or secreting the children from any other party.
- 1.4 Changing the children's current place of abode without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from changing such place of abode if an active prior court order gives that party the right to designate the children's primary residence without geographic restriction, or if the new place of abode lies within the geographic limits established by that active prior court order.
- 1.5 Disturbing the peace of the children.
- 1.6 Making disparaging remarks about another party or another party's family members, including but not limited to the child's grandparents, aunts, uncles, stepparents, or anyone with whom the party has a dating relationship.
- 1.7 Discussing with the children, or with any other person in the presence of the children, any litigation related to the children or the other party.
- 1.8 If this is an original divorce action, allowing anyone with whom the party has a dating relationship to be in the same dwelling or on the same premises overnight while in possession of the child. Overnight is defined from 10:00 p.m. until 7:00 a.m.

2. **CONDUCT OF THE PARTIES DURING THE CASE.** All parties are ORDERED to refrain from doing the following acts with the intent to harass, annoy, alarm, abuse, torment, or embarrass another party:

- 2.1 Using vulgar, profane, obscene, coarse, offensive, or indecent language to communicate with another party, whether in person, by telephone, or in writing, including by email, text message, or any other electronic communication.
- 2.2 Threatening another party in person, by telephone, or in writing, including by email, text message, or any other electronic communication, to take unlawful action against the party, a member of the party's family, including but not limited to anyone with whom the party has a dating relationship, or the party's property.
- 2.3 Placing or transmitting one or more telephone calls, emails, text messages, or other electronic communications to another party at an unreasonable hour, in an offensive or repetitious manner, anonymously, or without a legitimate purpose of communication.

3. **PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from the following conduct:

- 3.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties, regardless of whether it is intellectual, personal, or real property and regardless of whether it is claimed as separate or community property.
- 3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property, including electronically stored or recorded information, of one or both of the parties, regardless of whether it is intellectual, personal, or real property and regardless of whether it is claimed as separate or community property.
- 3.3 Damaging, destroying or tampering with the tangible or intellectual property of one or both of the parties, including any document or electronically stored or recorded information that represents or embodies anything of value, regardless of whether it is intellectual, personal, or real property and regardless of whether it is claimed as separate or community property.
- 3.4 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, regardless of whether it is intellectual, personal, or real property and regardless of whether it is claimed as separate or community property, except as specifically authorized by this order or a subsequent order of this Court.
- 3.5 Incurring any indebtedness, including cash advances from a credit card or line of credit, other than legal expense in connection with this suit, except as specifically authorized by this order or a subsequent order of this Court.
- 3.6 Making withdrawals from any account in any financial institution for any purpose, except as specifically authorized by this order or a subsequent order of this Court.
- 3.7 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order or a subsequent order of this Court.
- 3.8 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order or a subsequent order of this Court.
- 3.9 Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party. This includes affixing the other party's digital signature to any electronic document.
- 3.10 Taking any action to terminate, close, restrict, or limit lines of credit, credit cards, charge cards, or financial accounts in the name of or subject to the control of the other party, whether owned individually or jointly, except by subsequent court order or written agreement signed by each party permitting such action.
- 3.11 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.
- 3.12 Discontinuing or altering the withholding for federal income taxes on wages or salary while this suit is pending.
- 3.13 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.
- 3.14 Unlawfully intercepting or recording the other party's electronic communications.
- 3.15 Opening or diverting mail, email, or any other electronic communication addressed to the other party.
- 3.16 Excluding a spouse from the use and enjoyment of the marital residence in which the spouse had been residing within the thirty (30) day period prior to the date the original petition for divorce was filed.
- 3.17 Communicating with the other party's employer or a person with whom the other party has a business relationship without a legitimate purpose.
- 3.18 Entering any safe deposit box in the name of or subject to the control of a party, whether owned individually or jointly, except by subsequent court order or written agreement signed by each party permitting such entrance.
- 3.19 Destroying, disposing of, or altering any e-mail, text message, video message, or chat message or other electronic data or electronically stored information relevant to the subject matter of the divorce suit, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium.
- 3.20 Modifying, changing, or altering the native format or metadata of any electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium. This prohibition shall likewise apply to any suit affecting the parent-

- child relationship with regard to any electronic data or electronically stored information relevant to the subject matter of the suit affecting the parent-child relationship.
- 3.21 Deleting any data or content from any social network profile used or created by either party or a child of the parties.
 - 3.22 Using any password or personal identification number to gain access to the other party's email account, bank account, social media account, or any other electronic account.
4. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
- 4.1 Concealing, destroying, disposing of, or altering any of the parties' family records, property records, financial records, business records or any records of income, debts, or other obligations, including, but not limited to, a canceled check, deposit slip, other records from a financial institution, records of credit purchases or cash advances, tax returns, and financial statements.
 - 4.2 Falsifying any writing or record relating to the property of either party.
 - 4.3 "Records" includes e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.
5. **INSURANCE IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts, except by written agreement signed by each party permitting such acts:
- 5.1 Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order or a subsequent order of this Court.
 - 5.2 Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.
 - 5.3 Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' minor children.
6. **SPECIFIC AUTHORIZATIONS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:
- 6.1 To engage in acts reasonably and necessary to the conduct of that party's usual business and occupation.
 - 6.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.
 - 6.3 To make expenditures and incur indebtedness for reasonable and necessary living expenses commensurate with such expenditures and indebtedness incurred for the past six months.
 - 6.4 To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.
7. **SERVICE AND APPLICATION OF THIS ORDER.**
- 7.1 The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time an original petition is filed by non-electronic means, *if* the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented. At the time an original petition is filed electronically, *if* the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall decline to issue citation until the petition is resubmitted with a copy of this order attached in conformity with this section. Additionally, the Court *may* decline to grant temporary ex parte relief, decline to set a hearing in the case, or strike the petition without further notice *if* the Petitioner fails to resubmit the petition with a copy of this order attached in conformity with this section.
 - 7.2 This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. The requirement of a bond is waived. If, after service, no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of service of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of this court. This entire order will terminate and will no longer be effective only upon further order of the court, entry of a final order or dismissal of the case.
 - 7.3 In addition to any other remedies available for the enforcement of this order, at the Court's discretion, the Court may award reasonable and necessary attorney fees and court costs against a party found to have violated a provision of this order.

8. **EFFECT OF OTHER COURT ORDERS.** If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.

9. **PARTIES ENCOURAGED TO MEDIATE/COLLABORATE.** The parties are encouraged to settle their disputes amicably without court intervention. The parties are encouraged to use alternative dispute resolution methods, such as mediation or the collaborative law process, to resolve the conflicts that may arise in this lawsuit.

10. **PARENT EDUCATION AND STABILIZATION.** If this is a suit affecting or seeking modification of the parent-child relationship, all parties are ORDERED to attend one of the following parent education and stabilization programs within sixty (60) days of the date of filing or service of the suit, as applicable:

10.1 Children in the Middle (www.childreninthemiddle.com or 800-239-3971).

10.2 Divorce Sanity Co-Parenting (www.ccdcounseling.com/divorce-sanity or 800-897-7068).

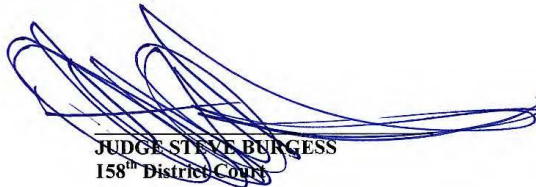
10.3 Crossroads of Parenting & Divorce (www.patschanz.com/co-parenting or 940.453.8700).

Waiver of the requirement that both parents shall complete a parent education and stabilization program may only be granted by order of the court. Completion of online programs or programs not listed above will not be accepted without prior approval by the court for good cause shown. Proof of completion of the program must be filed with the court upon meeting this requirement. Failure to provide such proof in a timely manner may result in the cancellation of any scheduled hearing or trial and denial of requested relief at the Court's discretion.

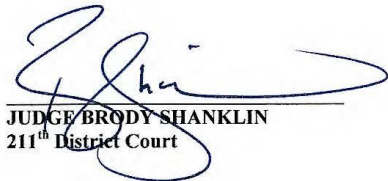
THIS DENTON COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES IS EFFECTIVE IN EVERY DIVORCE SUIT AND EVERY SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP, INCLUDING A SUIT FOR MODIFICATION OR ENFORCEMENT OF A PRIOR ORDER, FILED ON OR AFTER JANUARY 20, 2017.



JUDGE SHERRY SHIPMAN
16th District Court



JUDGE STEVE BURGESS
158th District Court



JUDGE BRODY SHANKLIN
211th District Court



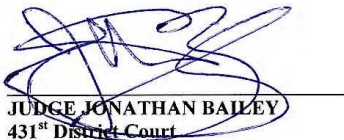
JUDGE BRUCE MCFARLING
362nd District Court



JUDGE MARGARET BARNES
367th District Court



JUDGE DOUG ROBISON
393rd District Court



JUDGE JONATHAN BAILEY
431st District Court



JUDGE TIFFANY HAERTLING
442nd District Court