

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2006-002887

08/16/2007

HON. SARAH D. GRANT, RET.

CLERK OF THE COURT
C. Danos
Deputy

ATLAS NO 000077108500
IN RE THE MATTER OF
ALEX GARCIA JR.

TERRY BAYS SMITH

AND

APRIL MONTES

CAROLYN B CROOK

MINUTE ENTRY

Courtroom 1102 -- Central Court Building

4:07 p.m. This is the time set for Return Hearing re: Contempt. Petitioner/Father, Alex Garcia, Jr. is personally present with counsel, Terry Bays Smith. Respondent/Mother, April Montes, is personally present represented by counsel, Carolyn B. Crook who appears telephonically.

A digital audio recording of this proceeding is being made by the "For the Record" recording system in lieu of a court reporter.

Matters discussed.

With respect to the parties' week on/week off custody arrangement, counsel advise the court that the parties have reached a stipulation that Andres Barron, Jr., Mother's current husband, shall not be in the presence of the children during Mother's parenting time with the children, and that even after the Order of Protection between Mother and Mr. Barron is vacated, Mr. Barron shall not be in the presence of the children.

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IT IS ORDERED that Ms. Smith formalize the parties' agreements, obtaining the signatures of Mother's counsel and the parties' and submit the stipulation to the court.

IT IS FURTHER ORDERED that Mother shall provide copies of the children's academic records for school year 2006/2007 relative to whether the children are being held back or are advancing to the next grade level as well as school immunization records to Father's counsel.

With respect to Mother's outstanding portion of the medical bills,

IT IS ORDERED that Father's counsel provide copies of unpaid medical bills to Mother's counsel and Mother's counsel shall pursue payment through AHCCCS.

IT IS FURTHER ORDERED that the issues of school attendance, payment of medical/dental bills and parenting time shall be set for evidentiary hearing.

LET THE RECORD REFLECT Mother provides her address and telephone number to Father's counsel in writing in open court.

With respect to after school care for the children,

IT IS ORDERED that until Mother makes arrangements for after school care for the children on days when they are to be in Mother's care, paternal grandmother shall care for the children and Mother shall pick up the children from paternal grandmother's home.

EVIDENTIARY HEARING SET

IT IS ORDERED setting an Evidentiary Hearing on the issues of school attendance, parenting time and medical/dental reimbursement expenses for **September 21, 2007 at 1:30 p.m. (two hours)** in this division before:

**Honorable Sarah D. Grant
Maricopa County Superior Court
Central Court Complex
201 W. Jefferson
11th Floor, Courtroom 1102
Phoenix, AZ 85003**

Each party shall have presumptive time of 50 minutes to present his/her case.

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Failure of a party to appear may result in the Court allowing the party who does appear to proceed by default. Failure of both parties to appear may result in this action being dismissed.

Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are expected to complete the hearing in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least thirty (30) days prior to the hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

IT IS ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall exchange updated disclosure statements required by Rules 49 and 50, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits **at least 30 days prior to the hearing.**
2. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed **at least 15 days prior to the hearing.**
3. Counsel and both parties shall personally meet, face to face, at least **ten (10) days prior** to the hearing to conduct settlement discussions, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.
4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution/company or business/medical or health care provider/employer possessing any relevant information.

IT IS FURTHER ORDERED as follows:

1. Except in the case where there is domestic violence between unrepresented parties, the parties shall file a joint pretrial statement. If there has been domestic violence between unrepresented parties, the parties may file separate pretrial statements. Upon the initiative of the Petitioner or counsel for the Petitioner, the parties or counsel, if the parties are represented, shall confer and prepare a written pretrial statement, signed by each party or counsel, to be filed by the petitioner **no later than five (5) days prior to the hearing**, unless another time is set by the Court. Such pretrial statement shall contain the following:

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- a. the nature of the action;
 - b. names and addresses, if not confidential, of the parties;
 - c. names and dates of birth of all minor children, if any;
 - d. the length of hearing if different from that scheduled by the Court;
 - e. a list of the names, addresses, and phone numbers of witnesses intended to be used by each party during the hearing, including an indication of witnesses whose testimony will be received by deposition testimony only (no witness shall be used at the hearing other than those listed, except for good cause shown);
 - f. a list of the exhibits that each party intends to use at the hearing, specifying exhibits that the parties agree are admissible at the hearing, or if not in agreement, a list of the objections and the specific grounds for each objection that a party will make if the exhibit is offered at the hearing (specific objections or grounds not listed in the pretrial statement may be deemed waived at the discretion of the hearing judge);
 - g. stipulations or agreements of the parties;
 - h. a statement of uncontested facts;
 - i. statements of contested issues of fact and law by each party;
 - j. a statement by each party that all pretrial discovery and disclosure has been completed by the hearing date and that the parties have exchanged all exhibits and reports of expert witnesses who have been listed as witnesses; and
 - k. a statement as to whether the parties have in good faith discussed settlement, and if not, the reasons for not discussing settlement.
- 2.** The parties shall each file with the joint or separate pretrial statement(s) the following:
- a. an Affidavit of Financial Information on a form approved by the Court;
 - b. if the case involves an action for dissolution, legal separation or annulment, a detailed itemized inventory of property and debt, listing the community, joint tenancy, and other property and debts held in common by the parties, and the separate property and debts of each party. This inventory shall set forth the date the property was acquired,

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by what title the parties hold the property, the amount of encumbrance thereon, and each party's evaluation of the fair market value of the property. The inventory shall also set forth the party's proposed distribution of property and debts. The inventory shall be in accordance with Rule 97, Form 12, "Inventory of Property and Debts."

3. If there are disputed custody, access or visitation issues, a specific proposal for custody and visitation by each party.

4. No other exhibits or witnesses shall be offered or presented during the hearing other than those listed and exchanged, except when otherwise permitted by the Court in the interest of justice and for good cause shown.

5. Failure of counsel or any party to appear at the time of hearing, or to timely present the Joint Pre-hearing Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 71(A), Arizona Rules of Family Law Procedure and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

EXHIBITS

IT IS ORDERED that any exhibits to be used at the hearing shall be delivered to the Clerk of this division **five (5) days prior to the hearing**. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pre-hearing Statement which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pre-hearing Statement shall be summarily admitted.

FINDINGS OF FACT

IT IS FURTHER ORDERED that any party filing a request for findings of fact and conclusions of law pursuant to Rule 82, *Arizona Rules of Family Law Procedure*, **shall submit proposed findings of fact and conclusions of law to this Division no later than 20 days prior to hearing**. Any controverting findings of fact and conclusions of law proposed by the adverse party shall then be submitted no later than 10 days prior to hearing.

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Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, Arizona Rules of Family Law Procedure.

NOTE: Should the parties reach a full agreement prior to the date of the hearing, the Court will consider a motion to vacate the hearing **ONLY AFTER A SIGNED STIPULATED AGREEMENT IS PRESENTED TO THE COURT.**

POSTPONEMENTS AND SCHEDULE CHANGES

Continuances, postponements and schedule changes will not ordinarily be granted. Any postponement or change will be granted only in accordance with appropriate rules, based on a showing of good cause, and requires the express written approval of the Court.

NOTE: All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division three (3) court business days before the scheduled hearing.

4:31 p.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.