

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

HONORABLE GLENN M. DAVIS

CLERK OF THE COURT  
C. Danos  
Deputy

IN RE THE MARRIAGE OF  
DAVID FEINBERG

LAURA GILLIS

AND

CASSANDRA FEINBERG

JARED SANDLER

ALTERNATIVE DISPUTE  
RESOLUTION - CCC  
CONCILIATION SERVICES-CCC  
FAMILY COURT SERVICES-CCC  
TASC - PHOENIX

MINUTE ENTRY

Courtroom 604 -- Central Court Building

Prior to commencement of this proceeding, David Feinberg and Cassandra Feinberg are sworn.

3:30 p.m. This is the time set for resolution management conference on Petitioner's Motion for Pre Decree Temporary Order with Notice for Child Custody filed June 10, 2011 and Respondent's Response filed September 15, 2011. Petitioner/Father, David Feinberg, is personally present and represented by counsel, Laura Gillis, who appears telephonically. Respondent/Mother, Cassandra Feinberg, is personally present and represented by counsel, Jared Sandler.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

A record of the proceeding is made by audio and/or video tape in lieu of a court reporter.

**PARENTING CONFERENCE**

**IT IS ORDERED** the parties shall participate in a **Parenting Conference**. The parties will be advised by separate minute entry of the name and telephone number of the Parenting Conference Provider and other relevant information regarding the Parenting Conference. The parties shall comply with all instructions and directives issued by the Provider.

**IT IS FURTHER ORDERED** that immediately following this hearing both parties are directed to pay the \$300 per party fee through the Clerk of the Court. The fee may be paid at the Clerk of the Court filing counter, by mail to the Clerk of the Court with a check or money order, or by telephone with the Clerk of Court (602 506-2800) with a debit or credit card.

**WARNING**

**IF YOU FAIL TO APPEAR AT THE PARENTING CONFERENCE AS ORDERED, YOU MAY BE REQUIRED TO PAY A \$100 NO SHOW FEE. THE PARENTING CONFERENCE PROVIDER IS AUTHORIZED TO SCHEDULE THE CONFERENCE AND ACCOMMODATE REASONABLE SCHEDULING REQUESTS FROM THE PARTIES. IF YOUR SCHEDULING REQUEST IS NOT PERMITTED BY THE PROVIDER AND YOU CANNOT ATTEND, YOU MUST REQUEST AND BE GRANTED PERMISSION FROM THE JUDGE IN YOUR CASE TO RESCHEDULE THE CONFERENCE AT LEAST THREE FULL COURT DAYS BEFORE THE CONFERENCE. IF AN AGREEMENT IS REACHED PRIOR TO YOUR APPOINTMENT DATE, YOU MUST SUBMIT A REQUEST TO THE JUDGE TO VACATE THE CONFERENCE AND WAIVE THE FEE IN ORDER TO AVOID FEE COLLECTION.**

**FILED:** Acknowledgment and Notice of Parenting Conference (2)

**TEMPORARY ORDERS HEARING SET**

**IT IS ORDERED** setting an evidentiary hearing on temporary orders re: parenting time, temporary decision-making authority until final orders, spousal maintenance and child support on **October 3, 2011 at 1:30 p.m. (one hour)** in this division before:

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

**The Honorable Glenn M. Davis  
Maricopa County Superior Court  
Central Court Building  
201 W. Jefferson  
6th Floor, Courtroom 604  
Phoenix, AZ 85003**

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.

**IT IS FURTHER ORDERED:**

1. **Time Allotted.** Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party presumptively will be allowed half of the available time to present all direct, cross and redirect examination and any argument. For each hour of trial time, this court generally allocates 25 minutes to each party. The parties are expected to complete the trial in the allotted time. If a party believes that more trial time is needed, he or she must file a motion at least 30 days before the trial setting forth good cause to enlarge the trial time. Failure to timely file such a motion will be deemed a waiver of any argument that more trial time is needed.

2. **Pretrial Statements.** The parties shall file and provide this Division with a copy of a **Joint Pretrial Statement** or **Separate Pretrial Statements** pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than 5 days before trial.

The Pretrial Statement shall include:

- a. All information required by Rule 76.
- b. A description of each disputed issue the court must decide, and a statement of each party's position on that issue. Absent good cause shown, failure to list an issue in the Pretrial Statement will be deemed a waiver of that issue.
- c. If there are disputed custody or parenting time issues, a specific proposal for custody and parenting time.
- d. If there are disputed child support issues, a current Parent's Worksheet for Child Support Amount completed by each party.
- e. A list of witnesses to be called at the hearing. Absent good cause shown, failure to list a witness will result in that witness being excluded.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

f. A list of exhibits to be used at the hearing. Absent good cause shown, failure to list an exhibit will result in that exhibit being excluded.

g. A list of objections to the other party's exhibits. Any objection not listed in the Pretrial Statement will be deemed waived.

3. **Trial Exhibits.** Exhibits for use at hearing shall be delivered to the Clerk of this division at least **five (5) days** before hearing for marking. **If exhibits are not delivered to the Clerk five days in advance, the hearing may be continued.** In addition, each party shall deliver a copy of his/her exhibits to the opposing parties at least five days before hearing.

The parties should also provide a copy of exhibits to the judge on the day of the trial. This allows the judge to see the exhibits at the same time they are being presented to witnesses.

4. **Settlement.** 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. If the parties reach a full settlement before trial, the court will vacate the trial only if (1) it receives a Notice of Settlement pursuant to Rule 70, Arizona Rules of Family Law Procedure, or (2) both parties inform the court of the settlement in an on-the-record telephonic conference. Oral notification to court staff or voicemail messages left with the court are insufficient. If the parties desire to place agreements on the record, they should contact this Division to schedule a telephonic conference.

5. **Continuances.** Motions to continue the trial filed more than 30 days before trial will not be granted absent a showing of good cause. Motions to continue the trial filed less than 30 days before trial will not be granted absent a showing of extraordinary circumstances.

6. **Disclosure and Discovery.**

a. Both parties shall complete all disclosure required by Rules 49, 50 and 91, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits at least 30 days prior to trial.

b. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure shall be completed 15 days before trial.

7. **Discovery And Other Pre-Trial Disputes.** If the parties have a dispute concerning discovery matters, or any other pre-trial dispute that requires court intervention, they may contact this division to schedule a telephonic conference before filing formal discovery

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

motions. Before such telephonic conference, counsel or the parties shall personally consult with each other to either resolve the dispute or narrow the issues.

8. **Trial Record.** 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 five (5) business days before the scheduled hearing.

**TASC REFERRAL**

**IT IS ORDERED** that Father and Mother shall undergo random drug testing on the following basis:

- A. Agency. Father's and Mother's random drug testing shall be conducted at a location of TASC, Inc., the main office of which is at 2234 North 7th Street, Phoenix, Arizona, 602-254-7328. Other locations are listed on the TASC referral form and may be viewed at [www.tascaz.org](http://www.tascaz.org).
- B. First Test. Father and Mother shall report to TASC no later than 5:00 p.m. today for their first test.
- C. Scope. Father and Mother shall undergo a "SINGLE DRUG test for alcohol, EtG" today and on an additional one-time only random basis between now and October 3, 2011.
- D. Cooperation. Father and Mother shall cooperate fully as reasonably required by the testing agency to comply with this Order, including:
1. Father and Mother shall provide such samples as are reasonably required by the testing agency to comply with this order.
  2. Father and Mother shall timely report for testing and provide samples as directed by the testing agency.
  3. Father and Mother shall present photo identification to the testing agency at the time of each test.
  4. Father and Mother shall sign and deliver such forms of consent, authorization and release of test results as shall be reasonably required by the testing agency to comply with this Order.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

E. Cost. Father and Mother shall pay the cost of their testing (\$11.00 per test) by money order, debit card or cashier's check at the time of testing.

F. Frequency & Duration. Father and Mother shall be tested this date and then an additional one-time only random test between now and October 3, 2011. Testing shall then be complete.

G. Positive/Diluted/Missed Test. All parties are advised that the failure, neglect or refusal to participate in testing, or providing a diluted test sample at the time of testing, may be considered an admission by the party that the testing, if properly conducted, would have revealed the use of the substance(s) tested for, which finding is contrary to the best interest of a child. Certain prescription medications may cause a positive drug test result. Parties who are required to drug test are expected to provide proof to the court of prescriptions and documentation from health care providers regarding the lawful possession and use of those medications.

H. Reporting. The parties are hereby advised that test results ARE NOT confidential and will be filed in the Court file upon receipt by the Court. The results of each test shall be reported directly to counsel for both parties, or directly to the parties at the addresses provided by the parties to the testing agency, if unrepresented by counsel.

**ISSUED:** TASC Referral forms (2)

**ALTERNATIVE DISPUTE RESOLUTION**

**IT IS ORDERED** referring this matter to the Court's Office of Alternative Dispute Resolution for the appointment of a Judge *Pro Tempore* to conduct a settlement conference. Counsel and/or the parties will receive a minute entry from ADR with the necessary settlement conference information. **Counsel and/or the parties should notify ADR (602-506-7884) when the parties reach an agreement prior to the scheduled settlement conference.**

**TRIAL SETTING**

**IT IS ORDERED** setting Trial to the Court on **February 23, 2012 at 1:30 p.m. (3 hours)** in this division.

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.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

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 trial in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least 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 FURTHER ORDERED** with regard to discovery and disclosure requirements:

1. Both parties shall complete all disclosure requirements required by Rules 49, 50 and 91, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits at least 30 days prior to trial.
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 trial.
3. Counsel and both parties shall personally meet, face to face, at least ten (10) days prior to trial to conduct settlement discussions, prepare a Joint Pre-trial Statement, 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, business, medical or health care provider or employer possessing any relevant information.

If a party is forced to incur attorney's fees or other costs to obtain documents or records by subpoena or other legal process after reasonable request of the other party to obtain such information in a more efficient or economical manner, the Court will consider a request for payment or reimbursement of such fees and costs at the time of trial.

**IT IS FURTHER ORDERED** that the parties shall file and provide this Division with a copy of a Joint Pretrial Statement pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than 5 days prior to trial.

**IT IS FURTHER ORDERED** that the Joint Pretrial Statement shall include:

1. A current Affidavit of Financial Circumstances completed by each party.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

2. If there are disputed custody, access or visitation issues, a specific proposal for custody and parenting time.
3. If there are disputed child support issues, a current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.
4. If the parties have a natural or an adopted minor unemancipated child in common, proof of compliance with the Parental Education Program requirements of A.R.S. §25-351 et seq.
5. If there are disputed issues regarding division of property, a current and detailed Inventory of Property and Debts, together with a summary proposal by each party as to how the property and assets should be divided. If possible, the court prefers a one-page statement of all property except personal property items valued at less than \$500 each.
6. If spousal maintenance is requested and disputed, each party shall state the amount and duration of spousal maintenance requested.
7. If division of debts is an issue, the parties shall prepare and exchange a list of all debts, including creditor's name, amount of debt, monthly payment amount, the reason the debt was incurred, who should pay the debt, and all of the information required by A.R.S. §25-318(H).
8. If there is a disputed issue regarding the payment of attorney's fees by either party, an affidavit of the attorney's fees claimed submitted in accordance with the requirements of Rule 78(D), Arizona Rules of Family Law Procedure.

**IT IS FURTHER ORDERED** that the failure of counsel or any party to appear at the time of trial, or to timely present the Joint Pretrial 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 76(D), Arizona Rules of Family Law Procedure, including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

**IT IS FURTHER ORDERED** that exhibits for use at trial shall be delivered to the Clerk of this division at least **five (5) days** before trial for marking. **If exhibits are not delivered to the Clerk five days in advance, the trial may be continued.** In addition, each party shall deliver a copy of his/her exhibits to the opposing parties at least five days before trial.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

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

**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 trial. 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 trial.

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. 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.**

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 five (5) business days before the scheduled hearing.

3:54 p.m. Matter concludes.

3:57 p.m. Court reconvenes with the parties and respective counsel present.

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**RULE 69 AGREEMENT**

Counsel advise the court that the parties have reached an agreement on a final orders basis, which is dictated into the record in the presence of both parties and counsel and which can generally be summarized as follows:

- Joint custody of the parties' minor children.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-003653

09/15/2011

Mother and Father both testify that they have heard, understood, and agree with the agreement as dictated into the record.

**THE COURT FINDS** that the parties have knowingly, intelligently, and voluntarily entered into a binding Rule 69 agreement, which will be enforceable by the court consistent with the record made by counsel

**THE COURT FURTHER FINDS** that the agreement entered into between the parties is not unfair, and is reasonable and in the best interests of the parties' minor children.

**IT IS ORDERED** approving the agreement of the parties as dictated into the record this date as a binding agreement pursuant to Rule 69, Arizona Rules of Family Law Procedure.

**IT IS FURTHER ORDERED** signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/s/ HON. GLENN DAVIS

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JUDICIAL OFFICER OF THE SUPERIOR COURT

**LET THE RECORD REFLECT** that the Respondent's address has been updated in iCIS as reflected on the Updated Address Information form filed this date.

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