

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

HON. ROGER E. BRODMAN

CLERK OF THE COURT  
N. Nowak  
Deputy

IN RE THE MATTER OF  
SHERMAN HARMAN

KELLY PERALTA

AND

HEATHER DEVEE

HEATHER DEVEE  
1548 W 7TH PL  
TEMPE AZ 85281

TASC - PHOENIX  
JOAN PARKINSON  
PO BOX 22253  
PHOENIX AZ 85260

**RESOLUTION MANAGEMENT CONFERENCE**

Courtroom 601 (CCB)

11:02 a.m. This is the time set for a Resolution Management Conference regarding Emergency Motion for Relief from Temporary Orders filed by Petitioners on September 30, 2013. Petitioners/Grandparents, Sherman and Carol Harman, are present and represented by above-named counsel. Respondent/Mother, Heather Devee, is present on her own behalf. Court-Appointed Advisor, Joan Parkinson, is present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Joan Parkinson is sworn and testifies.

Discussion is held.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

Based upon the testimony and the matters presented,

**IT IS ORDERED** appointing a Best Interests Attorney in this matter to investigate the situation involving the child. A separate minute entry shall issue defining the terms of the appointment.

**IT IS FURTHER ORDERED** granting Grandparent's request that Behavioral Health Provider Joel Glassman be appointed to perform a comprehensive custody evaluation. Grandparents shall be 100% responsible for any fees related to the evaluation. A separate minute entry shall issue defining the terms of the appointment.

**IT IS FURTHER ORDERED** that all parties shall cooperate fully with Mr. Glassman in his evaluation.

**IT IS FURTHER ORDERED** that Mother shall allow Grandparents to take the minor child Krystal Harman (DOB: 10/09/2008) to her next evaluation at the Melmed Center.

**IT IS FURTHER ORDERED** that Mother shall allow Grandparents to take the minor child to all Occupational Therapy sessions with the Melmed Center. Mother is encouraged to attend the sessions.

**IT IS FURTHER ORDERED** that Grandparents shall be responsible for all expenses, including transportation, associated with the Occupational Therapy sessions and any other appointments with the Melmed Center.

**IT IS FURTHER ORDERED** that Mother shall enroll the minor child in her local school and shall request an Individualized Education Program (IEP).

**IT IS FURTHER ORDERED** that Mother shall provide to the school any records from the Melmed Center for the minor child.

**IT IS FURTHER ORDERED** that Mother shall contact Joan Parkinson after enrolling the minor child in school.

**IT IS FURTHER ORDERED** that Mother shall complete a parenting course and file proof of completion with the Court, e.g., New Beginnings for parents (855) 531-0851 or [www.nbpdivorce.org](http://www.nbpdivorce.org). The Court will consider Mother's failure to attend the Court-ordered

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

sessions as contrary to the child's best interests.

**IT IS FURTHER ORDERED** that Mother shall not use corporal punishment as a means to correct the minor child.

**IT IS FURTHER ORDERED** that the parties shall attempt to communicate and agree regarding Grandparent's visitation with the minor child.

**IT IS FURTHER ORDERED** affirming Grandparent's visitation schedule.

**TASC DRUG TESTING**

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

A. Agency. Mother's random drug testing shall be conducted at a location of TASC, Inc., the main office of which is at 2234 North 7<sup>th</sup> Street, Phoenix, Arizona, 602-254-7328. Other locations are listed on the TASC referral form provided to Mother and may be viewed at [www.tascaz.org](http://www.tascaz.org).

B. First Test. Mother shall report to TASC no later than 5:00 p.m. today for her first test.

C. Scope. Mother shall undergo a full spectrum substance and drug test (Screen "A") for each test ordered herein.

D. Cooperation. Mother shall cooperate fully as reasonably required by the testing agency to comply with this Order, including:

1. Mother shall provide such samples as are reasonably required by the testing agency to comply with this order.
2. Mother shall timely report for testing and provide samples as directed by the testing agency.
3. Mother shall present photo identification to the testing agency at the time of each test.
4. Mother shall sign and deliver such forms of consent, authorization and release of test

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

results as shall be reasonably required by the testing agency to comply with this Order.

E. Cost. Grandparents shall pay the cost of Mother's testing.

F. Frequency & Duration. Mother shall be randomly tested not less than twice per week until the Trial on March 21, 2014.

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. The testing agency shall also provide this Court with a Monthly Drug Test Summary Report.

**IT IS FURTHER ORDERED** that Grandparents shall be responsible for all TASC testing expenses for Mother.

**IT IS FURTHER ORDERED** that Mother shall complete a Substance Abuse Assessment with TASC.

**TRIAL SETTING**

**IT IS FURTHER ORDERED:**

1. A trial regarding Emergency Motion for Relief from Temporary Orders will take place as follows:

a. **Date** – March 21, 2014

b. **Time** – 9:00 a.m. - 12:00 p.m. and 1:30 p.m. - 4:00 p.m.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

c. **Location** – Maricopa County Superior Court  
Central Court Building  
201 W. Jefferson  
Courtroom 601  
Phoenix, Arizona 85003

2. **Time Set Aside for You** – The Court has set aside **5 ½ hours** for this trial. 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 thirty (30) days prior to trial 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.

3. **Findings of Fact and Conclusions of Law** – You may request findings of fact and conclusions of law regarding the following issues, if they are contested: child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request findings of fact and conclusions of law, you must file a written request with the Court before the trial. If you do so, the Court will include findings of fact and conclusions of law in its final, written decision.

If either party asks the Court to make findings of fact and conclusions of law regarding any issue, then each party must file written proposed findings of fact and conclusions of law regarding all such issues twenty days before trial. The proposed findings also must be submitted in an electronic form (preferably Microsoft Word) that can be edited. **The proposed findings and conclusions must be submitted as an attachment to the Pretrial Memorandum** (the Pretrial Memorandum is discussed below). **If you fail to do this, you will be deemed to have waived a request for such findings and conclusions.**

4. **Additional Time** – If you think additional time needs to be set aside, you must request it by filing a motion not later than 30 days before the trial date. That request must include a reasonable explanation for the request **ALONG WITH** a list of each witness that you intend to have testify, a statement that describes what you expect each such witness to say, and an estimate of the amount of time you think will be necessary for that witness to testify. Because of the large number of cases assigned to this Division, it is very difficult to reschedule trials. Therefore, requests for additional time will be granted only in extraordinary circumstances.

5. **Continuances** – Requests to continue (or postpone) the trial are usually denied. If you

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

think that a postponement is necessary, the request must be made by written motion as far in advance of the trial as possible, and that motion must present very specific reasons for the request.

Generally, merely stating in the motion that the other party and you are trying to reach a settlement, without any specifics about the areas of disagreement and what has so far prevented a settlement from being reached, will not be sufficient. Before filing such a motion, you should make a reasonable attempt to ask the other party (or that party's attorney, if there is one) whether that party agrees or disagrees about a postponement, and then state that party's position in the motion. Even if the other party agrees to the postponement, the motion must still provide sufficient reasons for the request.

**VERY IMPORTANT**  
**What You Need to Do Before the Trial**

1. **Disclosure** -- You must tell the other party, in writing, everything that you will ask the Court to consider when deciding your case. Disclosure includes the following:

a. **Witnesses** – You must prepare a list of the witnesses whom you intend to present to testify on your behalf. The list must include the name, address (if known), and telephone number (if known) of each witness and a reasonable description about what you expect that witness to say in his or her testimony. The list must be mailed or hand-delivered to the other party and to the Court at least 30 days before the trial date. At the end of the list, you must certify the manner in which you provided the list to the other party.

b. **Exhibits** – If you want the Court to consider anything in writing or that can be copied onto paper (such as e-mails, text messages, and photographs), you must do the following: (i) prepare a list of each such item, (ii) copy each such item, and (iii) provide a copy of the list and a copy of each item on the list to the other party at least 15 days before the trial date. At the end of the list, you must certify the manner in which you provided the list and copies of everything listed to the other party. **DO NOT FILE EXHIBITS WITH THE CLERK OF COURT.**

In addition, a complete set of those exhibits (separated by a colored sheet) must be delivered to the Clerk of this Division at least 7 days before the hearing date so that the Clerk can “mark” the exhibits, i.e., assign the “official” numbers to those exhibits. If you do not do so, then each of your exhibits will have to be marked during the hearing. That will take time, and the

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

time spent doing that will come out of the time allocated to you. **NOTE: DO NOT PROVIDE A BENCH COPY OF YOUR EXHIBITS.**

**NOTE: We do not hold spots for supplemental exhibits.**

c. **Affidavit of Financial Information** – At least 15 days before the trial date, you must file with the Court an Affidavit of Financial Information. In addition, at the same time, you must provide a copy of that Affidavit **and all attachments** specified in the Affidavit to the other party. The form to be used can be found on the Internet at this Court's website.

d. **Expert Witnesses** – Expert witnesses are generally people with specialized training, education, or expertise, such as psychologists or accountants. If you intend to have an expert witness testify on your behalf, you must provide the name of the expert witness and the subject matter of his/her testimony to the other party, not less than 45 days before the scheduled trial date.

The requirements regarding expert witnesses will not apply to court-appointed parenting coordinators, Court Appointed Advisers, and other court appointees who submit written reports to the Court and the parties in advance of the trial. You will be permitted to have that person testify as you would any other witness, so long as you have included that person on your list of witnesses. Whether or not you ask that person to testify on your behalf, if you want the Court to consider any report that person wrote, you must include that report on your list of exhibits.

2. **Discovery** – All discovery (for example, interrogatories, requests for documents, and depositions) must be completed at least 20 days before the trial date.

a. For interrogatories and document requests, “completed” means that you must send them to the other party **so that the responses will be due at least 20 days before the trial date.**

b. Any deposition transcripts, interrogatory answers, or written responses to document requests that you want the Court to consider should be listed on your list of exhibits.

c. You must comply with any reasonable request from the other party for written consents or releases that will allow the other party to obtain records and other documents that the Court may need to consider, including records from a bank or other financial institution where you have an account, a company including present and past employers, or health care providers including medical professionals who have treated you.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

i. A party making such a request must have a reasonable basis for doing so and may not use this requirement as an opportunity to conduct a fishing expedition in the hope that something useful may turn up.

ii. If a party acts unreasonably, either when making such a request or when responding to it, in a way that forces the other party to incur any expense that could have been avoided, the party who acts unreasonably may be required to reimburse that expense.

3. **Pretrial Memorandum (Mandatory)** – At least 7 days before the trial date, you must provide the Court with a Pretrial Memorandum. You must also provide a copy to the opposing party unless that party has an attorney, and in that event, the copy must be provided to that attorney. That Memorandum should specify in detail what you want the Court to do and explain why that is reasonable. At a minimum, the Memorandum should include at least the following sections:

a. A **summary** of the issues on which you want the Court to rule (such as custody, child support, parenting time or visitation, division of property, division of debts, spousal maintenance, and so forth).

b. If there is a disagreement about **child support**, your Memorandum should state the amount that you think is reasonable and describe how you calculated that amount. For this requirement, the attachment of a completed Arizona Child Support Worksheet to the Memorandum is sufficient. The Arizona Child Support Guidelines can be found on the Internet at the website for the Arizona Supreme Court.

If either party claims that previously-ordered child support has not been paid in full, then your Memorandum should state the amount, if any, that you think is owed and show what has been paid and when. Simply stating that a certain amount is unpaid or that a certain amount has been paid will not be sufficient: dates that payments were due and amounts of payments that either were paid or should have been paid on those dates must be provided.

c. If there is a disagreement about **legal decision-making authority** (legal custody), your Memorandum should discuss each factor listed in A.R.S. § 25-403(A) that you think is relevant and why you think that factor supports your position. A.R.S. § 25-403(A) can be found on the Internet or in the reference section of local public libraries.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

d. If there is a disagreement about **parenting time**, your Memorandum should include the specific, detailed parenting plan that you want the Court to adopt, including regular, holiday, and vacation parenting time. Forms for parenting time can be found on the Internet, and the completion and attachment of such a form to your Memorandum will be sufficient.

e. Your Memorandum should include your final list of witnesses.

f. Your Memorandum should include your final list of exhibits.

**CRITICAL NOTE TO PARTIES:** If there is any issue about which you want the Court to make a ruling, and you fail to identify it in your Pretrial Memorandum, or if you fail to submit a Pretrial Memorandum altogether, unless you have a compelling excuse for that failure, you may be deemed to have waived that issue. Submitting the Memorandum on the day of trial will in most cases be the equivalent of not submitting any Memorandum at all.

The parties are not required to file a Joint Pretrial Statement. Instead, each party is required to file the separate Pretrial Memorandum described above. If the parties believe that it would be beneficial to submit a Joint Pretrial Statement, that will be acceptable so long as that Joint Pretrial Statement is timely submitted and it complies substantively with the requirements listed above.

4. **Attorney's Fees** –If a party requests an award of attorneys' fees and costs, the request should be noted in a single sentence in the Pretrial Memorandum along with citations to the legal authority on which the request is based.

5. **Parental Education Program** – If you and the other party have a natural or adopted minor child in common who is under the age of 18, then, if you have not done so already, at least 7 days before the trial date, you must file with the Court proof that you have complied with the Parental Education Program requirements of A.R.S. § 25-351 and following.

**What Happens When A Party Does Not Comply with These Requirements**

If you do not appear for the trial on the date and at the time stated above, or if you do not comply with one or more of the requirements listed above, and you cannot provide a reasonable excuse for doing so, the Court may penalize you in one or more ways. Penalties may include a refusal to allow you to present certain evidence, a financial penalty, or a trial that proceeds as if you have consented to what the other party has requested (i.e., proceeding by default). See Ariz.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

Rs. Fam. L. P. 71(A); Maricopa Cty. Sup. Ct. R. 6.2(e).

**Finally,  
A Few Suggestions**

In addition to complying with the requirements listed above, the presentation of your case probably will be much more effective if you do the following (but, these are only suggestions):

1. If any of your exhibits contain more than five pages, and those pages do not have page numbers on them, then without blocking out any relevant information, write in page numbers before you make the copies that you deliver to the Clerk and send to the other party. If possible, place those page numbers at or near the bottom right corner or the top right corner of each page. That way, during the trial, it will become much easier for witnesses, and the other party to find a specific page within a multi-page exhibit.

**Summary of Important Deadlines**

Last day to identify **witnesses** – 30 days before the trial date.

Last day to identify and provide copies of **exhibits** – 15 days before the trial date.

Last day to deliver exhibits to the Court's Clerk – 7 days before the trial date.

Last day to file **Affidavit of Financial Information** (and provide copy to the other party) – 15 days before the trial date.

Last day to provide copy of **expert witness** reports or declarations to the Court and the other party – 45 days before the trial date.

Last day to **complete discovery** – 20 days before the trial date.

Last day to file **Pretrial Memorandum** (and provide copy to the other party) – 7 days before the trial date.

Last day to file proof of completion of **Parental Education Program** – 7 days before the trial date.

11:51 a.m. Matter Concludes.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-005249

11/26/2013

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>.