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IN THE COUNTY COURT OF THE 18th JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

PAIGE ANN LOCKE
Petitioner/ Wife

Case No: 05-2017-DR-054881
Division: Family

Vs.

MICHAEL BASS LOCKE
Respondent/ Husband

**FINAL JUDGMENT FOR DISSOLUTION OF MARRIAGE ON PARENTING
ISSUES, CHILD SUPPORT, AND PARTITION OF REAL PROPERTY**

THIS CAUSE came to be heard on December 9, 10, and 16, 2021 via ZOOM, upon the Wife's Petition for Dissolution of Marriage. Present before the Court was the Husband who was represented by Leslie Ferderigos, Esq. The Wife was represented by Deborah Smith, Esq. After taking testimony of the parties, their witnesses, including David Turberville (Brevard County Sheriff), Adam Walkington (Brevard County Sheriff), Honorable Robert Segal, Elizabeth Depelteau, Psy.D., Jaymie Gaucher (Director of Center for Child Development), Matthew Wilson (Guidance Counselor at Sable Elementary School), Dr. Gil Lichtshein, M.D., and Matthew Wasinger, Esq. (representing Planet Home Lending) and evidence submitted during the Final Hearing,

The Court FINDS the following FACTS:

Marriage

- A.** The parties were duly married to each other on December 31, 2015. The parties cohabited together as husband and wife until their final separation on or about December 10, 2016. On July 14, 2020, this Court entered a Bifurcated Final Judgment of Dissolution of Marriage (Docket #139), dissolving the bonds of matrimony and reserving jurisdiction on the property and child-related issues.

Jurisdictional Issues

- B.** The Court has jurisdiction of the parties and the subject matter herein. The parties have been residents of the State of Florida for at least six (6) months prior to the filing of the Petition and last resided as Husband and Wife in Brevard County, Florida.
- C.** The Court has personal and subject matter jurisdiction of the parties' minor children and issues related to the parties' minor children. This

Parenting Plan is a child custody determination under the Uniform Child Custody Jurisdiction Enforcement Act, the International Child Abduction Remedies Act 42 U.S.C. Section 1160 et. Seq., the Parental Kidnapping Act, and the Convention on the Civil Aspects of International Child Abduction enacted at Hague on October 25, 1980, and for all other state and federal law. The Court has considered all factors set forth in Florida Statute 61.30 as well as the testimony and evidence presented.

Children

- D.** There is two (2) children born to wit: Wilder T.L. born September 11, 2013, in Brevard County Florida. Rowen M.B.L. born April 18, 2016, in Brevard County Florida.

Findings Relative to Best Interest of the Children

The Court has carefully considered the testimony as well as the age and needs of the minor children, and has considered F.S. 61.13(3) and makes the following findings of fact:

- E. Shared Parental Responsibility.** The Father and the Mother should have shared parental responsibility for the minor children over all major decision making on the minor children, including but not limited to education, healthcare, religion, travel, extra-curricular activities, etc. Shared responsibility is not found to be detrimental to the children based on the testimony and evidence given during the Final Hearing. Parties will use Our Family Wizard for their only source of communication. Communication shall be limited to only issues regarding the children.
- F. Parenting Plan.** The provisions contained in this Judgment, including the time-sharing contained in this Judgment, constitute a "parenting plan" intended to govern the relationship between the parties relating to the decisions to be made regarding the children pursuant to Section 61.13, Florida Statutes, and that these provisions are in the best interest of the children.
- G. Factors.** The Court has considered the factors in 61.13, Florida Statutes. Not all factors are applicable in this case, but the following factors are most relevant. The Court makes the following findings of fact concerning the best interest of the children, relative to parental responsibility, the parenting plan, and the time-sharing schedule ordered herein:

Factors (a) and (c): The Court finds the testimony of Jaymie Gaucher, Director of Center for Child Development (hereinafter "Center"), indicated that the Mother was responsible for the refusal of the Center to release Wilder to his Father during the Father's timesharing. The Mother directed the Center not to release Wilder to his Father. As a result of her direction, the police were called. Once the police arrived at the Center the child was directed to leave with the Father. Ms. Gaucher testified Wilder was happy to see his father, had no fear of him and wanted to leave with his Father at the time of the incident. According to Ms. Gaucher, based on her observations, the Father has always had positive behavior with Wilder. The Court found it concerning that Ms. Gaucher took the Mother and the minor child into her office with her, rather than being with both parents or remaining in a neutral area until everything was resolved. The Court finds it most important from Ms. Gaucher's testimony that Wilder wanted to go with his Father on the day the Father showed up to pick him up. The Mother was responsible for the Police becoming involved at the child's school based on her instructions to the Center not to release the minor child to the Father. The court also found it concerning that Ms. Gaucher failed to mention that the minor child was suspended from aftercare in November of 2020, when he was deprived of contact with his Father and under the sole control of the Mother. Based upon the demeanor, lack of frankness, ability to remember the court found Ms. Gaucher bias toward the mother and gave her testimony less weight. This factor is slightly less favor for the mother.

Factor(g): The Father has had a history of mental health diagnosis. However, he has proven to be compliant with treatment under the direction of his psychiatrist and demonstrated the ability to parent successfully. This factor is slightly less favorable to the Father as long as he stays in compliance with treatment.

Factor (h): The Court finds the testimony of Matthew Wilson (Guidance Counselor at Sable Elementary School), to indicate that Wilder's behavior of acting out and the majority of the referrals in the fall of 2020 was during the time the Father was having no contact with the children. The Court finds in August of 2020 after injunction had been granted, Wilder acted out two (2) weeks later when he was initially given contact with his Father then abruptly denied contact with his Father by the Mother. Wilder's behavior improved during the Fall 2021 once Wilder was able to have consistent contact with his Father. When Wilder received a referral in the Fall of 2021 was when the Mother failed to allow video contact between Wilder and his Father. The Court finds that Wilder

displayed concerning behavior when he would have no contact with his Father and under the sole control of his Mother. This is equally in favor of both parents.

Factor (m): The Court finds it concerning a Petition for Stalking Violence injunction filed only for the protection of the Mother, not on behalf of the children was at a later date amended to add the children without amending the petition or notice to the Father as to the merits behind adding the children. It was this amended injunction that ultimately led to the Father having no physical contact with his children for close to two (2) years. The Court also takes issue that the Father was arrested for allegedly violating a permanent injunction for the Mother's protection when the injunction had never been served on the Father prior to his arrest.

Factor (s): The Court find the testimony of Elizabeth Depelteau, Psy.D., Wilder's therapist to indicate there is no doubt that Wilder had mood disorder. Dr. Depelteau had contact with the Father during 2019 and 2020. During the time she was in contact with the Father, she testified that she observed positive behavior from the Father when interacting with Wilder. Dr. Depelteau saw nothing that was not age-appropriate behavior from the Father when interacting with Wilder. The only time she saw a concerning behavior was when the Father spoke to her about his concerns regarding the Mother and the child was in the room. However, Dr. Depelteau, always spoke to the parents at the onset of the child's session to request the parents to voice their concerns so they could be addressed with the child during the session. This conversation with Father occurred during this portion of the session and was invited by Dr. Depelteau. The Court does not find this to be abnormal or inappropriate based on Dr. Depelteau's typical procedure to discuss the parents' concerns at that time. Dr. Depelteau further stated Wilder was not fearful of his dad. Furthermore, not through the testimony of Ms. Gaucher, but rather the testimony of Dr. Depelteau, it was found that Wilder was suspended from aftercare in November of 2020, once again when he was deprived of contact with his Father and being under the sole control of the Mother.

The Court does not give much weight to the photographs entered into evidence of the home. Although the photos showed the house was unclean, and damaged, the Father acknowledged the condition of the house. The Court notes the timeframe the house was not cleaned was when the Father had been denied contact with

his children for over thirty (30) days. The Father stated he was very deeply depressed during this time because of no contact with his kids which was why the house was not cleaned. The Father admitted that the house was normally cleaner. The Court finds any reasonable person, without a PTSD diagnosis like the Father's diagnosis, who without notice had his/her children removed for thirty (30) days without no indication of any contact in the future would be depressed. The Court does not hold the lack of cleanliness of the home against the Father, as the Court finds his depression and actions as a result of having his children removed without notice was reasonable. Thus, the Court did not give great weight to the photographs of the home based on the circumstances.

The Court does not give much weight to the photographs of the children. There were pictures of the children allegedly having dirt in their fingernails, cuts and bruising of the children. The Court reviewed the photographs and found that the cuts or bruising if viewable in the photograph was minimal and/or not abnormal for a child that age. Regarding the photographs of the youngest child, the Court saw minor cuts and bruises caused by the young child falling. This is not abnormal for a child of this age. There is no indication of hitting, grabbing, or pulling or any testimony these minor injuries were caused by abusive or neglectful behavior from the Father. These failed to demonstrate what was Ms. Gaucher, Ms. Wilson, Ms. Delpelteau have all indicated the Father has positive behavior towards the children during the time they personally observed the Father and the children.

The Court does not agree that the videos submitted into evidence provide any evidence of aggressive or abusive behavior of the father. In fact, the Court finds the Mother's perception and testimony regarding these videos as skewed. The Court is concerned and calls into question the credibility of the Mother's testimony given her demeanor while testifying, and exaggerated perception of the events she testified to in these videos. The Court finds in the video of the drop off at the baseball field the Mother was the first to yell at the Father. Furthermore, when the Mother requested the Father to step back, the Father stepped back immediately and did exactly what the Mother requested. The Court did not find the Father was the first to engage in confrontational behavior towards the Mother. The Court finds the Mother appeared to me more the aggressor towards the Father.

The Court finds the second video was not as the Mother depicted. Upon reviewing the video, the Court finds the Father's statement that he is going to kill the Mother was not a credible threat, but rather said in anger and not with the literal intention of actually wanting to kill the Mother. Further in listening to the

video, the mother's testimony regarding the child's statement he hated the Father because the Father told the child it was time to go home while the child was playing with a lego was not credible. Upon review of the video, the child told the story very matter of fact and stated he did not want his Father to think he feared him. To the contrary, the child did not appear to be scared of his Father. In fact, the child appeared to care deeply for his Father and stated he did not want his Father to get arrested or hurt. When the Court originally heard the testimony of the Mother prior to seeing the video, the Court expected the video to depict a much worse circumstance based upon how the Mother described this incident. The Mother's testimony was exaggerated and extremely skewed from what the Court saw when watching the video. In fact, in the second video, it was the Mother making demands of the Father to put the children down and the Father immediately obeyed doing exactly as she requested of him. Nothing suggests the Father was inappropriate with the children in any manner from the videos. The children were acting appropriately and had no indication of any fear of their Father nor the Mother. The Court weighed the mother's exaggerated perception of the photographs and videos as well as her demeanor when weighing the Mother's testimony in its entirety. The Court found her less credible in portions of her testimony.

The Court finds the Father under all these circumstances during the pendency of this case accepted responsibility, he was straight forward, and the Court finds the Father to be extremely credible in his testimony.

IT IS, therefore, **ORDERED and ADJUDGED** as follows:

Parental Responsibility

1. The Court is giving 50/50 responsibility to decision making and the only way of communication between the parties shall be through Our Family Wizard. This communication will strictly be regarding the children. There will be no direct communication between the parents, other than through Our Family Wizard.

Time-Sharing Schedule

Due to the length of time the Father has been deprived of his children; the Court is implementing a "step-up" timesharing plan for the consistency of the children as follows:

2. The Father will have in-person timesharing commencing on Saturday, 12/19/21 under the supervision of either of the parental grandparents and/or the Father's brother from 12:00pm until 2:00pm

3. The Father will have in-person timesharing commencing on Christmas Day 12/25/21 under the supervision of either of the parental grandparents and/or the Father's brother from 2:00pm until 6:00pm
4. The Father will have in-person timesharing commencing on New Year's Day, 1/1/2022 under the supervision of either of the parental grandparents and/or the Father's brother from 2:00pm until 6:00pm
5. The Father will have in-person timesharing commencing on 1/2/22, 1/9/22, 1/16/22 under the supervision of either of the parental grandparents and/or the Father's brother from 2:00pm until 6:00pm for each of these dates
6. The Father will have in-person timesharing commencing on 1/22/22 and 1/23/22, 1/29/22, 1/30/22, 2/4/22, 2/5/22, 2/11/22, 2/12/22 under the supervision of either of the parental grandparents and/or the Father's brother from 2:00pm until 6:00pm for each of these dates
7. The Father will have in-person overnight timesharing commencing on 2/19/22 to 2/20/22, 2/26/22 to 2/27/22, 3/5/22 to 3/6/22, 3/12/22 to 3/13/22 under the supervision of either of the parental grandparents and/or the Father's brother from 12:00pm on each Saturday until 6:00pm on each Sunday
8. The Father will have in-person overnight timesharing commencing on 3/25/22 to 3/27/22, 4/1/22 to 4/3/22, 4/15/22 to 4/17/22, 4/29/22 to 5/1/22, 5/13/22 to 5/15/22, 5/27/22 to 5/30/22 under the supervision of either of the parental grandparents and/or the Father's brother from after school each Friday until 6:00pm Sunday for each weekend. For Memorial Day Weekend pick up will be after school Friday until 6:00pm Monday. The Paternal Grandparents will facilitate the pick-ups and drop-offs for exchanges during this time.
9. The Father will have in-person overnight timesharing commencing on Thursdays thru Sunday for the following weeks: 6/9/22 to 6/12/22, 6/30/22 to 7/3/22, and 7/21/22 to 7/24/22 under the supervision of either of the parental grandparents and/or the Father's brother from Thursday at the end of school if the children are in school or if not in school than 12:00pm on Thursday until 6:00pm on the Sunday for each of these weeks listed.
10. The Father and Mother will begin a 2/2/3 permanent timesharing commencing on 8/8/22. The Father's timesharing will be supervised by one of the following: either of the parental grandparents and/or the Father's brother until October 10, 2022. At the start of 10/10/22, the Father's 2/2/3 timesharing will be unsupervised.

TABLE DEMONSTRATING THE 2/2/3 Timesharing for August, September, and October of 2022 and will continue unsupervised permanently as demonstrated from October 8, 2022, ongoing each month hereafter

August 2022

Sun	M	T	W	R	F	Sa
	<u>_____ Father</u> <u>begins</u> <u>2/2/3</u> <u>Timesharing</u> <u>g on 8/8/22</u>	Father	Mother	Mother	Father	Father
Father	Mother	Mother	Father	Father	Mother	Mother
Mother	Father	Father	Mother	Mother	Father	Father

September 2022

Sun	M	T	W	R	F	Sa
Father	Mother	Mother	Father	Father	Mother	Mother
Mother	Father	Father	Mother	Mother	Father	Father
Father	Mother	Mother	Father	Father	Mother	Mother
Mother	Father	Father	Mother	Mother	Father	Father

October 2022

Sun	M	T	W	R	F	Sa
Father	Mother	Mother	Father	Father	Mother	Mother
Mother	<u>10th</u> <u>Father</u> <u>begins</u> <u>unsupervised</u> <u>Timesharing</u> <u>g</u>	Father	Mother	Mother	Father	Father
Father	Mother	Mother	Father	Father	Mother	Mother
Mother	Father	Father	Mother	Mother	Father	Father

Holiday Timesharing

- 11.** On 8/8/22, once the parents begin their 2/2/3 timesharing schedule, the Holiday Timesharing schedule will begin. Holiday Timesharing will supersede the regular 2/2/3 permanent timesharing schedule. After the parents engage in their designated holiday timesharing, the parties will resume their regular 2/2/3 permanent timesharing schedule as if it never ceased. Holiday Timesharing is as follows:

- A. Mother's Day:** Mother shall have timesharing every Mother's Day from 6:00pm Saturday until Sunday at 6:00pm, regardless of if Mother's Day falls during the Father's designated weekend
- B. Father's Day:** Father shall have timesharing every Father's Day from 6:00pm Saturday until Sunday at 6:00pm, regardless of if Father's Day falls during the Mother's designated weekend

- C. Children's Birthday: The parent who has the child during their regular 2/2/3 schedule will have the child for their birthday.
- D. Halloween: Father will have the children every even year from 4:30pm until 10:00am the following day or if the children have school the following day, then until the start of school.
- E. Christmas/Winter Break: Until the youngest child turns ten (10) years old the parents shall split the Winter Break/Christmas as follows: The Father will have the children for the 1st half of Christmas/ Winter Break during even years. The Mother will have the children during the 1st part of Christmas/ Winter Break during odd years. The 1st part of Christmas/Winter Break will be from the time school lets out for Christmas/Winter Break until 12:00pm on Christmas Day. At 12:00pm Christmas Day the parent who did not get the 1st part of Christmas/Winter Break will pick the children up and have timesharing with the children until the start of school in January following the Winter Break. Once the youngest child turns ten (10) years old the 1st part of Christmas/Winter Break will be from the time school lets out for Christmas/Winter Break until December 26 at 12:00pm. The 2nd part of Christmas/Winter Break will be from December 26 at 12:00pm until the start of school in January after Christmas/Winter Break.
- F. Thanksgiving: The Father shall have the children during odd years and the Mother shall have the children during even years. Thanksgiving break is defined as the Wednesday of thanksgiving week until Sunday at 6:00pm.

Summer Timesharing

- 12. After the parents begin their 2/2/3 timesharing schedule, in 2023 the Summer Timesharing schedule will begin. Each parent will get two (2) consecutive weeks each summer for uninterrupted timesharing with the children. However, the Father shall get priority to claim his dates first during odd years and the Mother shall get priority to claim her dates first during even years. Both parents shall notify the other parent each year by April 15 through Our Family Wizard, as to which two weeks that parent plans to take their two (2) consecutive weeks with the children.

Travel

- 13. If either parent plans to travel with the children, the parent planning to travel shall notify the other parent within 24-hr of a booking or any arrangement made to secure travel. Additionally, the parent planning to travel with the children shall not travel with the children without giving at least seven (7) days' notice to the other parent. Thus, no parent shall travel with the children with less than seven (7) days' notice.

Passports

- 14.** Both parents need to cooperate with the other parent to obtain the children's passports. This means that both parents need to cooperate with any requirement mandated by the passport agency to obtain the children's passports. Neither parent shall unreasonably hold on to the children's passport, preventing the other parent from being able to travel with the children.

Uncovered Medical Costs

- 15.** Parent will be equally responsible for the children's uncovered medical expenses. Once a parent obtains an invoice, that parent shall submit the invoice to the other parent within 30 days of receipt. The parent who receives the request for payment must pay their share of the expense within 30 days of receiving the invoice.

Notice of Doctor's Appointments

- 16.** If a parent schedules a medical appointment for the children, that parent shall notify the other parent within 24-hours the children's medical appointment. Both parents contact information shall be given to all professionals treating the children so either parent can obtain information regarding the children.

Designation for School

- 17.** The Mother's address shall be used for any school zoning or residential designations for the minor children.

Communication between Parents and Children

- 18.** Neither parent shall disparage or allow a 3rd party to disparage the other parent. Neither parent shall question the children about what they do during the other parent's visitation or allow a 3rd party to question the children about what they do during visitation with the other parent. Both parents shall use all efforts to encourage and facilitate a close and continuing relationship between the children and the other parent.

Child Support

- 19.** Parents Incomes: Based on the testimony and evidence submitted by the parties, the Court finds the Mother's income to be \$2495.20 every two weeks and the Father's monthly income to be \$5,389.03.¹
- 20.** January, February, March, April, & May of 2022: The Father shall pay the Mother \$1063.00 each month in child support. [Child Support Worksheet attached] Any disability benefits designated for the children are considered child support and the Father is entitled to a credit if paid directly to the children. The Father shall make the payment on or about the 5th of each month thereafter, the Father shall make the child support payment through the State Disbursement Unit at P.O. Box 8500, Tallahassee, Florida 32314-8500. The Clerk's service charge is presently 4% of each payment or not less than \$1.25 nor

¹ The total income is considered as including the Father's disability VA benefits designated for the children.

more than \$5.25 and shall be paid with the child support payment. All child support payments through the Disbursement Unit shall include the payor's full name, county being paid, and the civil action number of the case.

21. June 2022 & July 2022: The Father shall pay the Mother \$682.00 a month in child support. [Child Support Worksheet attached] The Father shall make the payment on or about the 5th of each month thereafter, the Father shall make the child support payment through the State Disbursement Unit at P.O. Box 8500, Tallahassee, Florida 32314-8500. The Clerk's service charge is presently 4% of each payment or not less than \$1.25 nor more than \$5.25 and shall be paid with the child support payment. All child support payments through the Disbursement Unit shall include the payor's full name, county being paid, and the civil action number of the case.
22. Starting on August 1, 2022, and ongoing: Once the parties begin the 2/2/3 permanent timesharing schedule, neither party will owe child support to the other parent. [Child Support Worksheet attached]
23. Child Support Arrearages - The following will be paid as to arrearages. From the time of the petition December of 2017 until August 30, 2018, the Mother owes the Father \$58.00 a month for a total of \$522.00. From August 31, 2018 until August 18, 2020, the Mother owes the Father \$58.00 per month for a total of \$1,392. The court did not consider the arrearages based upon the Father not receiving notice for the amendment to include the children in the injunction which therefore removed the children from timesharing without notice or an opportunity to be heard. Considering the circumstances and the issue in which this court may have continued timesharing at the time, the court does not believe arrearages are proper from August 18, 2020 forward.
24. Tax Exemptions: Should both parents be required to file taxes, parents will alternate claiming the children for tax exemptions. The Father will claim the children during even years and the Mother will claim the children during odd years. Should the parent not be required to file taxes that year, then the other parent will be able to exercise the exemption for that year.
25. Childcare Costs: Parents will equally share in childcare costs. Childcare is defined as mutually agreed to childcare before the child is of school age to enter into kindergarten.

Father's Compliance with Psychiatric Treatment

26. The Father shall continue his compliance with his psychiatric treatment. The psychiatrist shall be a Florida License Psychiatrist qualified to treat psychiatric conditions. The Father's psychiatrist shall issue a report each month, indicating the father's compliance with his treatment. If the Father is not required to see the psychiatrist each month, the psychiatrist shall indicate when the Father is required for

appointments and issue a report that would indicate that the Father is only in need of monitoring and compliance every couple of months

Firearms

27. The Father shall not possess any firearms at the time of this judge. However, the Father can petition the court in the future to possess firearms.

Mortgage Assumed by the Father

28. Planet Home Lending or any mortgage company with an interest on the property described as "The Delvalle Property":

Lot 1, Block SA, Floridana Beach First Addition, according to the map or plat thereof, as recorded in Plat Book 10, Page(s) 42, of the Public Records of Brevard County, Florida.

will allow the Father to attempt to occupy the home located at 127 Delvalle Street, Melbourne Beach, FL 32951. The mortgage company shall give the Father an extension of time until the criminal matters have been ruled upon.

Injunctions

29. Any injunction ordering the Father to not travel to, occupy, possess, or come near the address of 127 Delvalle Street, Melbourne Beach, FL 32951 (herein referred to as the "Delvalle Property") is immediately terminated pursuant to this judgement. The Delvalle Property could be best described as:

Lot 1, Block SA, Floridana Beach First Addition, according to the map or plat thereof, as recorded in Plat Book 10, Page(s) 42, of the Public Records of Brevard County, Florida.

DONE AND ORDERED on this Monday, March 21, 2022

05-2017-DR-054881 03/21/2022 11:01:57 AM



Jessica Recksiedler, Circuit Judge
05-2017-DR-054881 03/21/2022 11:01:57 AM

CERTIFICATE OF SERVICE

WE DO CERTIFY that a copy of the foregoing has been furnished by U.S. Mail, hand, or email delivery on Monday, March 21, 2022 to

SMITH, DEBORAH M
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A handwritten signature in black ink, appearing to read "Vanessa Liu", written over a horizontal line.

Vanessa Liu, Judicial Assistant
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