

exemption. If and when the Wife will benefit from taking the exemption, the wife shall be entitled to claim [REDACTED] (dated of birth [REDACTED] 2003) as a dependency exemption. When only one child qualifies as a dependent, and if the Wife's taxable income is such that she will benefit from an exemption, the parties shall alternate years in claiming M [REDACTED] (date of birth September 14, 2004) commencing first with the Husband. If the Husband no longer benefits from taking the dependency exemptions, due to retirement or otherwise, the Wife shall be entitled to the dependency exemptions.

#### PAST JOINT RETURNS

6. Each party represents and warrants to the other that to his or her knowledge no taxes, interest or penalties are due or owing with respect to any joint income tax returns heretofore filed by the parties, no tax deficiency proceeding is pending or threatened thereon, and no audit thereof is pending. If there is a deficiency assessment in connection with any joint returns (heretofore or hereafter filed), the party notified thereof shall notify the other party immediately in writing. Each party shall keep the other fully informed of any and all steps taken by him or her with respect to a deficiency assessment.





EXHIBIT 1

LEGAL FEES AND EXPENSES

The parties acknowledge that the Husband has paid Five Thousand Dollars (\$5,000.00) to counsel for the Wife pursuant to a temporary order of the Worcester Probate and Family Court. In addition, at the time that this Agreement is approved by the Court, Husband shall pay Attorney Jane Fraier an additional Ten Thousand Dollars (\$10,000.00) for the Wife's legal fees. Otherwise, each party shall be responsible for the payment of his or her own attorney's fees, expenses and expert witness fees incurred in the prosecution, negotiation and settlement of the pending divorce litigation between the parties.

p06638v





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The parties acknowledge that the Husband has paid Five Thousand Dollars (\$5000.00) to counsel for the Wife pursuant to a temporary order of the Worcester Probate and Family Court. In addition, at the time that this Agreement is approved by the Court, Husband shall pay Attorney Jane Fraier an additional Ten Thousand Dollars (\$10,000.00) for the Wife's legal fees. Otherwise, each party shall be responsible for the payment of his or her own attorney's fees, expenses and expert witness fees incurred in the prosecution, negotiation and settlement of the pending divorce litigation between the parties.

p06638v





Court Name: 10th Circuit - Family Division - Portsmouth  
 Case Name: In the Matter of Kimberly [redacted] and David [redacted]  
 Case Number: \_\_\_\_\_  
 (if known)

**UNIFORM CHILD CUSTODY JURISDICTION  
 AND ENFORCEMENT ACT (UCCJEA) AFFIDAVIT  
 RSA 458-A**

It is important that you answer these questions with as much detail and accuracy as possible. Lack of adequate information could significantly delay orders being issued in your case.  
 There are several situations that might result in New Hampshire exercising jurisdiction over child/ren. The continuous presence of the child/ren in New Hampshire for six (6) months is not the only basis for jurisdiction. In some emergency situations, the court may be able to exercise jurisdiction on a temporary basis.

1. List minor children born to or adopted by the parties:

Name	Date of Birth	Current Address
[redacted]	[redacted] /2003	[redacted]
[redacted]	[redacted] /2004	[redacted]

2. List the places where the minor child/ren of the parties has/have lived in the last five (5) years and the names of the people they lived with at that time, if you know. Start with where the child lives now and work backward in time.

Dates From/To	Town/City, State	Parent(s)/Caretaker	Current Address/Contact Address of Parent/Caretaker	Which Child/ren
06/2011 to present	Hampton, NH	Kimberly [redacted]	[redacted]	Both
2004-2011	Princeton, MA	Kimberly & David [redacted]	[redacted]	Both

If more space is needed, attach Extra Page (Form NHJB-2656-FPS).  
 I have attached Form NHJB-2656-FPS because additional space was needed.

3. Are there any person(s), not a party to this proceeding, who have physical custody of the child/ren or who claim to have custody, physical custody or parenting time rights?  Yes  No  
 If yes, list name(s) and address(es) of person(s):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_





Court Name: 10th Circuit - Family Division - Portsmouth  
Case Name: In the Matter of Kimberly [REDACTED] and David [REDACTED]  
Case Number: \_\_\_\_\_

### PETITION TO CHANGE COURT ORDER

1. Your Name Kimberly [REDACTED]  
Date of Birth [REDACTED] 1966 E-mail Address (optional) \_\_\_\_\_  
Residence Address [REDACTED]  
Mailing Address (if different) \_\_\_\_\_  
Telephone Number (Home [REDACTED] (Work) \_\_\_\_\_

2. Other Party's Name David [REDACTED]  
Date of Birth [REDACTED] E-mail Address (optional) \_\_\_\_\_  
Residence Address [REDACTED] Princeton, MA 01541  
Mailing Address (if different) \_\_\_\_\_  
Telephone Number (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

3. List minor children born to or adopted by the parties:

Name	Date of Birth	Current Address
[REDACTED]	01/16/2003	[REDACTED]
[REDACTED]	09/14/2004	[REDACTED]

If there are minor children born to or adopted by the parties, complete questions 4 – 8. This information is required under RSA 458-A, the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

It is important that you answer these questions with as much detail and accuracy as possible. Lack of adequate information could significantly delay orders being issued in your case.

There are several situations that might result in New Hampshire exercising continuous presence of the child/ren in New Hampshire for six (6) months. In some emergency situations, the court may be able to exercise jurisdiction.





4. List the places where the child/ren lived, including the names of the people they lived with at that time, if you know. Start with the most recent date and go backward in time.

Dates From/To	Town/City, State	Parent(s)/Caretaker	Current Address/Contact Address of Parent/Caretaker	Which Child/ren
06/2011 to present	Hampton, NH	Kimberly [REDACTED]	[REDACTED]	
2004-2011	Princeton, MA	Kimberly [REDACTED]	[REDACTED]	Both
				Both

If more space is needed, attach Extra Page (Form NHJB-2656-FPS).

I have attached Form NHJB-2656-FPS because additional space was needed.

5. Are there any person(s), not a party to this proceeding, who have physical custody of the child/ren or who claim to have custody, physical custody or parenting time rights?  Yes  No  
If yes, list name(s) and address(es) of person(s):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

6. Check one of the following:

I have not participated in any court case(s) concerning the custody, visitation, parenting time or placement of the child/ren in this or any other state.

OR

I have participated in court case(s) concerning the custody, visitation, parenting time or placement of the child/ren in this or any other state. I have participated in the following:

Name of Court	State	Case No.	Date of Court Order
Worcester Probate Court	Massachusetts	WO11D1834DR	01/28/2013

7. Are there any actions for enforcement, or proceedings relating to domestic violence, domestic relations, protective orders, marriage dissolution, paternity, legitimation, custody, parental rights and responsibilities, termination of parental rights, adoption, juvenile, or other proceedings in any court in any state affecting any children named in this petition or parents of those children?  Yes  No If yes, complete the following:

Name of Court	State	Case No.	Type of Court Case
Portsmouth Family Divisio	New Hampshire	441-2013-DV-00015	DVP





6.                       
jeopardized by the disclosure of identifying information  
state as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. What part of the court order(s) do you want the court to change? (Check any that apply)  
The date of the most recent court order (if known): \_\_\_\_\_

- |  |   |
|--|---|
| <input type="checkbox"/> Child Support Only          | <input type="checkbox"/> Child Support and Parenting Plan |
| <input type="checkbox"/> Legal Separation to Divorce | <input type="checkbox"/> Alimony                          |
| <input checked="" type="checkbox"/> Parenting Plan   | <input type="checkbox"/> Other _____                      |

10.  I have tried to resolve the issue(s) raised in this petition with the other party. We are unable to resolve the issue(s) and have sought the help of a neutral third party (such as a mediator or neutral evaluator) to assist us. We are unable to work out the disagreement after seeking third party assistance.

OR

I have not tried to resolve the issue(s) raised in this petition because:

- a.  There is a domestic violence protective order in effect OR  
b.  Other (State reasons you did not try to resolve issue(s) with other party):

\_\_\_\_\_  
\_\_\_\_\_

11. What, specifically, do you want the court to order? (Please attach additional page(s) if necessary.)

**That David shall have no contact with either of the children.**

12. Why should the court change the current orders? (List each reason separately.)

**The children have reported that David sexually abused them on more than one occasion when they were in his care and he threatened to find them and hurt them if they ever told anyone. The children will suffer detrimental harm to their physical and mental/emotional health and well being if David is allowed to have contact with them.**

13. Please check one of the following regarding public assistance.

- No public assistance (TANF) is now being or has within the last 6 months been provided, nor is medical assistance (Medicaid) presently being provided, for any minor child of the parties.
- The N. H. Department of Health and Human Services is providing or has provided within the last 6 months public assistance (TANF) and/or medical assistance (Medicaid) for a minor child or children of the parties. If you check this box, you must mail copies of this petition and the Personal Data Sheet (NHJB-2077-FS) to DHHS at:

New Hampshire Department of Health and Human Services  
Division of Child Support Services - Legal Unit  
129 Pleasant Street  
Concord, NH 03301





14. By filing this petition, you are asking:
- Change the current orders as stated above;
  - Schedule a hearing;
  - Other:

Grant any other orders which may be appropriate.

I acknowledge that I have a continuing duty to inform the court of any court action in this or any other state that could affect the child/ren in this case.

I swear or affirm that the foregoing information is true and correct to the best of my knowledge.

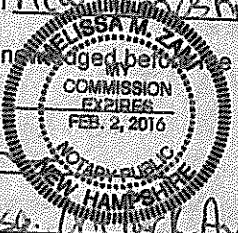
Date 3-26-2013

[Signature]  
Signature of Party Filing Petition to Change Court Order

State of New Hampshire, County of Rockingham

This instrument was acknowledged before me on 3/20/2013 by [Signature]

My Commission Expires [Blank]  
Affix Seal, if any



[Signature]  
Signature of Notarial Officer / Title

[Signature]  
Signature of Attorney

Printed Name, Address and Phone Number of Attorney  
Melissa Zamora, Esq., 120 Rock Ave, Unit 46, Hampton, NH 03842 603-778-1985  
Bar # 10254





Court Name: 10th Circuit-Family Division-Portsmouth

Case Name: In the Matter of Kimberly [redacted]

Case Number: 670 2013DM 114

### ORDER ON EX PARTE (EMERGENCY) MOTION

A motion for *ex parte* or emergency orders has been submitted. The Court has reviewed the motion.  1. The Court issues the following orders which will remain in effect until further hearing:

- A. The  Petitioner  Respondent (check one) shall have temporary sole decision-making and residential responsibility for the minor child(ren).
- B. The  Petitioner  Respondent (check one) shall have temporary sole residential responsibility for the minor child(ren).
- C. The  Petitioner  Respondent (check one) shall not interfere in any way with the personal liberty or property of the other nor the household property used in the care of the minor child(ren), nor do any act to interfere with the other parent's decision-making and residential responsibilities for the minor child(ren).
- D. The  Petitioner  Respondent (check one) is awarded temporary exclusive use of the parties' residence at \_\_\_\_\_  
(residence address)

and household furniture and furnishings therein.

- E. The  Petitioner  Respondent (check one) shall not enter the residence or property of the other.
- F. Each party is restrained and enjoined from transferring, encumbering, hypothecating, concealing or otherwise disposing of any property except in the ordinary course of business or for the necessities of life.

G. Other:

Respondent shall have no parenting time pending a hearing and further orders. A representative of DCYF is requested to appear at the hearing. A copy of the Motion and this Order shall be delivered to DCYF.

2. No *ex parte* or emergency orders are issued. However, this case shall be scheduled for a prompt hearing with Petitioner and Respondent present, as set forth below.

3. No *ex parte* or emergency orders are issued. The case shall be scheduled in the ordinary course.

A hearing on the *ex parte* motion, and any orders issued, is scheduled for:

Date of Hearing: April 26, 2013 at 10:00 am  
Time of Hearing

Recommended:

Date \_\_\_\_\_

Signature of Marital Master \_\_\_\_\_

Printed Name of Marital Master \_\_\_\_\_

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent, the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date 3/26/13

Signature of Judge \_\_\_\_\_

JENNIFER A. LEMIRE

Printed Name of Judge \_\_\_\_\_





Court Name: 10th Circuit - Family Division - Portsmouth

Case Name: In the Matter of Kimberly [REDACTED] and David [REDACTED]

Case Number: \_\_\_\_\_  
(if known)

### EX PARTE (EMERGENCY) MOTION

Your Name: Kimberly [REDACTED]

Other Party's Name: David [REDACTED]

A. What *ex parte* orders do you want the court to make?

Modify the parenting and custody orders so that David is not allowed to have any contact with our daughters.

B. Describe the reasons that you feel are important supporting your request for *ex parte* orders and describe the immediate and irreparable injury, loss or damage that will happen to you, your child(ren) or your property if the *ex parte* orders are not granted before the other party has an opportunity to be heard on this matter. List each separately.

The girls have reported that David sexually abused them on more than one occasion when they were in his care & that he threatened to come & get them & hurt them if they ever told anyone. There is an open investigation with NH DCYF. This Court issued me a Domestic Violence Temp Order of Protection on 3/14/13 (case#441-2013-DV-15 final hearing 4/18/13). David was arraigned in MA on 3 Counts of Indecent Assault and Battery on a Child Under 14, but the MA court did not impose any bail conditions on David regarding his contact with the children. The girls and I are terrified that David is going to hurt them for telling what he did to them & they will suffer immediate & irreparable harm if he is allowed contact with them.

C. Notification:

1. What efforts have you made to notify the other parties of your appearance at court today and your request for *ex parte* orders?

I am prohibited from contacting David pursuant to the terms of the Domestic Violence Temporary Order of Protection. My attorney called David before filing this Motion.





2. What...

I am prohibited from contacting David pursuant to the Order of Protection. My attorney had to leave a voicemail.

I certify that on this date I provided a copy of this document to David [redacted] (other party) or to [redacted] (other party's attorney) by:  Hand-delivery OR  US Mail OR  E-mail (E-mail only by prior agreement of the parties based on Circuit Court Administrative Order).

Date 3-26-2013

Signature [redacted]

Signature [redacted]

Attorney for Party (if any)

Signature of Party [redacted]

Date 3/26/2013

Printed Name, Address, E-mail, and Phone Number of Attorney Melissa Zani, Lawyers One Park Ave, Unit 46, Hampton, NH 03843 603-778-1985 #10254

State of New Hampshire, County of Rockingham

This instrument was signed before me on 3/26/13 by Kimberly [redacted]

My Commission Expires Affix Seal, if any



Signature of Notarial Officer [redacted] Title





THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

ROCKINGHAM COUNTY

10<sup>TH</sup> CIRCUIT - FAMILY DIVISION - PORTSMOUTH

In the Matter of:  
Kimberly [REDACTED] Petitioner and David [REDACTED] Respondent

Case No. 670-2013-DM-00114

REVIEW HEARING ORDER

A Review Hearing was held on October 11, 2013. Both parties appeared with their counsel and the Guardian *ad Litem* (GAL) appeared. A record was made of the hearing.

In advance of the hearing the Court received and reviewed the Guardian *ad Litem's* report and recommendations. The Court has carefully considered both counsel's offers of proof and the evidence presented, which includes the following: that in July of this year DCYF made an internal finding which the Respondent has appealed and that there continue to be criminal charges pending in Massachusetts; that the children's therapists do not recommend contact between the children and the Respondent at this time because of trauma symptoms; that the girls' counseling is in its early stages, and that there has been a substantial amount of time since the Respondent had contact with either daughter.

The Court approves the Guardian *ad Litem's* recommendations. Specifically, the Court orders that the parties shall undergo a family systems evaluation with Dr. Johnson of the Greenhouse Group, which shall include psychological testing for the parents. The Guardian *ad Litem* represented that Dr. Johnson could evaluate the trauma without having to interview the children. Dr. Johnson must be afforded access to the GAL and both of the children's counselors and the parties shall provide authorization for same. The Guardian *ad Litem* shall pose the following questions to Dr. Johnson:

Given the trauma symptoms of the children, what is the best way to reduce anxiety and allow the children and the family relationships to heal?

Should visits be recommended, how can the caregivers and providers best prepare the children to see their father?

The family systems evaluation shall occur as soon as possible given the length of time the children have had no contact with their father. All parties shall cooperate with the evaluation and the evaluation shall, in the first instance, be released only to the Court and to the Guardian *ad Litem*. In the first instance, the parties shall share equally in the costs of the family systems evaluation.





The Clerk's Office shall schedule a Further Review Hearing (30 minutes) after May 1, 2014. If the evaluation is completed sooner and any party finds that a sooner hearing is warranted, a written request may be made with the Court.

Pending the completion of the evaluation and further orders, the Respondent's contact with the children continues to be suspended.

All other outstanding orders not inconsistent herewith remain in full force and effect.

**So Ordered.**

November 12, 2013

Date



Hon. Jennifer A. Lemire, Judge





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FAX  
781-551-9035  
OF COUNSEL  
GEORGE F. GORMLEY

December 2, 2013

VIA ELECTRONIC MAIL  
Ellen Shimer-Brenes, Esq.  
Shimer & Daukewicz, LLP  
22 Walker Road  
North Andover, MA 01845

RE: [REDACTED] v. [REDACTED]

Dear Attorney Shimer-Brenes:

It is my understanding that the court is contemplating allowing Ms. [REDACTED] to enter Mr. [REDACTED] home in Princeton in order to retrieve certain household belongings without Mr. [REDACTED] being present. Having been so intimately involved in representing Mr. [REDACTED] during the 18 month divorce litigation, it is my opinion that Ms. [REDACTED] should not have access to the home without Mr. [REDACTED] present.

Based upon Ms. [REDACTED] history of deceit, repetitive distortion of facts and vindictive attempts to undermine Mr. [REDACTED] during the divorce proceedings, there is legitimate and significant concern that Ms. [REDACTED] will exploit the opportunity to have unsupervised access to the home to take property that does not belong to her or destroy property belonging to Mr. [REDACTED]. It is also reasonably foreseeable that Ms. [REDACTED] would also abuse this unfettered access to the home by maliciously and vindictively leaving the premises in disarray. Throughout the divorce proceedings, Ms. [REDACTED] exhibited unbridled rage towards Mr. [REDACTED], took property from the premises without permission, constantly threatened Mr. [REDACTED] with retribution at each and every turn, and often using the children as pawns to accomplish her goals. In fact, on the heels of the divorce settlement, Ms. [REDACTED] suddenly made unfounded and life-altering allegations against Mr. [REDACTED] that ironically had never been a topic of concern during the entire year and one-half of litigation. Had the case proceeded to trial, a mental health evaluation of Ms. [REDACTED] would have been most appropriate. Allowing her to access the premises without Mr. [REDACTED] present, would provide her an unimpeded opportunity to destroy Mr. [REDACTED] property and violate his right to privacy in his own home.

DARVO - Deny, Attack, Reverse Victim and Offender  
pjw comment. pjw

RECEIVED

JAN 03 2014  
10th Circuit Court  
Family-Portsmouth





57  
Circuit Family Division

THE STATE OF NEW HAMPSHIRE

Portsmouth Family Division

In The Matter Of Kimberly [REDACTED] and David [REDACTED]

Case Number 670-2013-DM-000015

PETITIONER'S PROPOSED ORDER

Hearing on March 21, 2014

The Court held a Hearing on March 21, 2014 on Petitioner's Motions for Contempt and Motion for Reconsideration, and Respondent's Objection, regarding the removal of personal property from the former marital home. Petitioner and Respondent appeared, represented by counsel. This Court enters the following Order:

1. Mr. [REDACTED] is found to be in Contempt of the Divorce Decree with regard to Petitioner's removal of personal property from the former marital home; for his failure to pay for one half (1/2) of the children's uninsured medical expenses; and for his failure to provide written verification of his Life Insurance Policy despite written requests for the same.
2. Mr. [REDACTED] shall forthwith transfer the \$90,000 (Ninety Thousand Dollars and 00/100) to Ms. [REDACTED] from his retirement account, or an account of his choice, regardless of the schedule set forth herein for Ms. [REDACTED] to remove her undisputed items of personal property from the formal marital home.
3. Mr. [REDACTED] shall forthwith pay his one-half (1/2) of the M. [REDACTED]'s uninsured medical expenses for her treatment with Dr. Gear.
4. Ms. [REDACTED] shall provide thirty (30) days notice, through counsel, of the date and the time that she will go to the former marital home with her sister, brother-in-law, and father, for purposes of identifying and making a list of personal property that she would like to remove from the home. Ms. [REDACTED] shall be allowed a reasonable amount of time to identify and list such property, not to exceed eight (8) hours.



5. Ms. [REDACTED] shall provide the list of personal property to Mr. [REDACTED] through counsel, and Mr. [REDACTED] will review said list and respond in writing within seven (7) days, through counsel, identifying any items in dispute.
6. Thereafter, Ms. [REDACTED] shall provide thirty (30) days notice, through counsel, of the date and time she will be removing the items not in dispute from the marital home. Ms. [REDACTED] shall be entitled to two (2), eight (8) hour days for moving the undisputed personal property from the former marital home.
7. Mr. [REDACTED] shall not be present at the former marital home or on the property at any time Ms. [REDACTED] has arranged to be present in accordance with the provisions of the Restraining Order [Case No. 441-2013-DV-00015].
8. Ms. [REDACTED] shall only have her sister, brother-in-law, and father present at any of the agreed upon times; however, she may also employ professional movers to assist her with the removal of the undisputed items. Ms. [REDACTED] will not have her boyfriend or any member of his family present nor will the children be present at any of the agreed upon times in accordance with the terms of the Divorce Decree.
9. The Parties, through counsel, shall negotiate an agreement with respect to any items in dispute and either may request a hearing on those issues.
10. Mr. [REDACTED] shall pay the reasonable attorney fees and costs of Ms. [REDACTED]





**RECOMMENDED:**

\_\_\_\_\_  
Name of Marital Master  
Dated:

\_\_\_\_\_  
Signature of Marital Master

**SO ORDERED:**

I hereby certify that I have read the recommendations and agree that, to the extent the marital master has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master.

\_\_\_\_\_  
Name of Judge  
Dated:

\_\_\_\_\_  
Signature of Judge





THE STATE OF NEW HAMPSHIRE  
ROCKINGHAM COUNTY, SS

JAN 02 2014  
10th Circuit Court  
Family-Portsmouth  
10<sup>th</sup> CIRCUIT COURT

PORTSMOUTH FAMILY DIVISION

IN THE MATTER OF KIMBERLY [REDACTED] AND DAVID [REDACTED]

670-2013-DM-00114 and 441-2013-DV-00015

Affidavit of David [REDACTED]

Now Comes David [REDACTED] and on oath deposes and says as follows:

1. I am the Respondent in this matter.
2. I have read everything in the attached foregoing motion and everything in it is true and accurate based on representation I have made to my Legal Counsel.
3. I have read Exhibit A, the copy of my Fidelity/IRA statement documenting the \$74K in a Market/ Cash Reserves Fund, and everything in it is true and accurate based on representation I have made to my Legal Counsel.
4. I have read Exhibit B, the Temporary Divorce Decree, and everything in it is true and accurate based on representation I have made to my Legal Counsel.
5. I have read Exhibit C, the Verne Letter, and everything in it is true and accurate based on representation I have made to my Legal Counsel.
6. I have read Exhibit D, the Connelly Letter, and everything in it is true and accurate based on representation I have made to my Legal Counsel.
7. I have also provided and read a copy of my Pay-Stub, and everything in it is true and accurate based on representation I have made to my Legal Counsel.
8. Everything contained in this Affidavit is true and accurate to the best of my knowledge. So help me God.

  
David [REDACTED] [REDACTED]



10th Circuit—Family Division—Portsmouth  
Case No. 670-2013-DM-00015

In The Matter of Kimberly [REDACTED] Wife and David [REDACTED]

ORDER

On March 21, 2014, the parties appeared with counsel for a hearing on wife's Verified Motion for Contempt, filed on August 8, 2013, and Renewed Motion for Contempt and Request for Expedited Hearing, filed on December 20, 2013. After consideration of the offers of proof, pleadings and the file, the Referee recommends:

The dispute involves wife's retrieval of the personal property and furnishings she was awarded pursuant to the parties' divorce in Massachusetts, made "absolute" on April 29, 2013. For reasons entirely unclear to the court, except perhaps due to the parties' unwillingness to be reasonable, wife has not retrieved the property. Each blames the other. The court cannot determine who is responsible for the 11-month delay and therefore declines to find husband in contempt. No matter who is at fault, the issue has gone on for far too long. The court directed the parties to try to agree to a plan to exchange the property. To their credit, they did, and the court approves their handwritten Stipulation.

Within 30 days of the Clerk's Notice of this Decision, husband shall transfer to wife the remaining \$90,000 of her share of his retirement assets.

Husband has now provided wife with a copy of his life insurance policy and has cured any contempt for this issue.

The divorce decree requires the parties to "consult in an effort to reach mutual agreement concerning major life matters and decisions... which affect (the children). It also requires wife to "keep Father apprised of the children's medical appointments and provide (him) with any new contact information of new (providers)... and shall notify (him) when the children are undergoing testing or evaluation or are taking new or adjusting any prescription medications." Husband is authorized to attend appointments, review records, and consult with the children's providers. Finally, the decree requires the parties to share equally the uninsured health-related expenses of the children.

Husband concedes that he has not paid his 50% share of the uninsured costs of [REDACTED] mental health treatment. He reports that he did not agree to the treatment and argues that he is therefore not responsible to share the cost. The court disagrees. The provider also treats another of the parties' children and husband pays for those uninsured costs. He concedes that mother told him that [REDACTED] so required treatment. He then tried to contact the provider directly but the provider did not respond. Apparently, he has still not communicated directly with the provider. The court finds that wife complied with the requirement that she notify husband about [REDACTED]'s treatment, the name of the provider, and the prescribed medication. Although husband may not have consented to the treatment, wife was still entitled to have [REDACTED] treated. The decree does not require the parties to

Continued





every decision would not only be impractical, but would also be inappropriate. In a circumstance like this, when the provider is recommending immediate treatment. Further, wife has authority to arrange for testing and evaluation of the children and to allow the children to take newly prescribed medication or to adjust previously prescribed ones. If she did not have that authority, the language of the decree, requiring her to notify husband when she exercised it, would be rendered meaningless.

Husband shall reimburse wife \$510 for his 50% share of [redacted]'s treatment within 10 days of the Clerk's Notice of this Decision. Pursuant to the decree, he shall pay his 50% share of the uninsured expenses of [redacted] future treatment by the 15<sup>th</sup> of the month when he receives notice of the expense from wife (she is required to notify him by the 5<sup>th</sup> of the month). Financial abuse

Wife's Motion to Strike husband's Response (to the Renewed Motion for Contempt) is denied.

No costs or fees are awarded to either party.

The parties shall appear for the hearing on the parenting issues on May 5, 2014.

All prior Orders not inconsistent herewith remain in full force and effect.

March 25, 2013

  
Phillip D. Cross, Esq., Referee

I hereby certify that I have read the recommendation(s) and agree that, to the extent the judicial referee has made factual findings, he has applied the correct legal standard to the facts determined by him.

3/28/14  
Date

  
Signature of Judge

Jennifer A. Lemire  
Presiding Justice

Printed Name of Judge

In The Matter of Kimberly [redacted] and David [redacted]  
2013-M-114

Continued entry on p. 2

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ROCKINGHAM COUNTY

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

10<sup>TH</sup> CIRCUIT - FAMILY DIVISION - PORTSMOUTH

In the Matter of:  
Kimberly [REDACTED] Petitioner and David [REDACTED] Respondent

Case No. 670-2013-DM-00114

ORDER

A Further Hearing was held on August 4, 2014. Petitioner appeared with her counsel, Melissa Zani, Esquire, and Respondent appeared with his counsel, Ellen Shimer-Brenes, Esquire. The Guardian *ad Litem*, Attorney Lynn Aaby, was only recently appointed (to replace Attorney Elbroch) by Order dated July 7, 2014. She was not in attendance.<sup>1</sup> A record was made of the hearing.

There was some discussion about the scope of this hearing. The undersigned reviewed the file dating back to the hearing held October 11, 2013 that resulted in the November 12, 2013 Order that provided, in pertinent part, that the parties would undergo a Family Systems Evaluation (FSE) with Dr. Douglas Johnson. That Order further provided that a Further Review Hearing would be scheduled for "after May 1, 2014." It is clear given the context of the Order that the purpose of the Further Review Hearing was to learn the status of the FSE. In fact, the Court indicated that if the evaluation was completed sooner, a written request for a sooner hearing could be filed.

The Further Review Hearing was initially scheduled for May 5, 2014, but was continued (ultimately, to today) at the request of the Guardian *ad Litem* because the FSE had not yet occurred.

Respondent has filed a Proposed Order and "Status Update" in connection with today's hearing addressing issues other than the status of the FSE. Petitioner objects. There are no pending Motions and the Notice of Hearing does not indicate that any issues outside of the FSE would be addressed. Respondent's Proposed Order seeks substantive relief with respect to issues such as personal property distribution. The Court finds that these issues are outside of the scope of today's hearing which was scheduled by direction of Court as set forth in the November 12, 2013 Order.

It was reported that the FSE still has not occurred. Although the Court resolved the issue relative to the cost of the FSE by Order dated April 15, 2014, the evaluations have not yet been scheduled. Respondent's counsel represents that Dr. Johnson will not permit the parties or counsel to schedule; a GAL must be involved. In any event, it is clear that the FSE is not yet even underway.

<sup>1</sup> The Court notes, as it did on the record, that the GAL filed a Motion on August 1, 2014 requesting an extension of 60 days from August 1, 2014 to submit a Preliminary Report, given that she was only very recently appointed.

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Continued next page

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Given that a new GAL was only recently appointed, parties and counsel are encouraged to work together and cooperate with one another relative to scheduling the FSE as soon as possible, with the GAL's assistance if necessary.

A Review Hearing is scheduled for November 4, 2014 at 10:30 a.m. The scope of the hearing shall be to review the status of the FSE and also to receive input from the GAL who shall have completed at least a preliminary investigation by that time. It is the Court's hope and expectation that by then, the FSE (which was ordered to occur almost one year earlier) will be underway if not completed. The Court is mindful of the fact that Respondent's parenting time continues to be suspended in the interim. Diligent efforts must be made by all parties involved to move forward with this process as soon as possible.

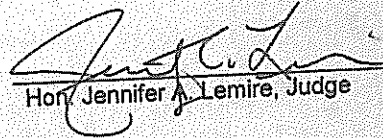
The Guardian *ad Litem's* Motion to Extend Deadline is GRANTED. Her preliminary report shall be due on or before October 15, 2014.

All prior consistent orders remain in full force and effect.

So Ordered.

August 4, 2014

Date

  
Hon. Jennifer A. Lemire, Judge

2  
In the Matter of:  
Kimberly [redacted] and David [redacted]  
Case No. 670-2013-DM-00114

41

no pcc

#2

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11/10

Continued hearing on 11/10





THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

ROCKINGHAM COUNTY

10<sup>TH</sup> CIRCUIT - FAMILY DIVISION - PORTSMOUTH

In the Matter of:  
Kimberly T. [REDACTED] Petitioner and David T. [REDACTED] Respondent  
Case No. 670-2013-DM-00114

ORDER

A Review Hearing was held September 11, 2015. The Petitioner appeared with her counsel, Melissa Zani, Esquire, and the Respondent appeared with his counsel, Ellen Shimer-Brenes, Esquire. The GAL was excused in advance of the hearing. A record was made of the hearing.

Respondent's criminal trial was held in July. He was found Not Guilty. The girls testified. The Family Systems Evaluation is underway with Dr. Johnson. Respondent is discouraged (this is probably an understatement) that Petitioner did not contact Dr. Johnson sooner following the conclusion of the trial to get the process back underway. The Court will not assess fault or sanction either party with respect to this issue. There was no order expressly obligating either party to contact Dr. Johnson following the criminal trial. The GAL was to contact Dr. Johnson, who was then to meet with the girls, per February 12, 2015 Order of this Court. Evidence was submitted that the GAL wrote to Dr. Johnson on August 6, 2015 and notified him that the parties would be calling him to schedule an appointment. This correspondence was copied to both counsel. Petitioner did call Dr. Johnson at some time thereafter, and prior to September 4, 2015, though the date was not clearly articulated. Both parties are presently waiting for Dr. Johnson to get back to them with appointment dates.

It is unknown to the Court how far along Dr. Johnson is in the evaluation process, what he still requires to complete the investigation (though some ideas were proffered during the hearing, ie. CAC interviews and trial transcript) or when it is likely to be complete. The Court determined that 30 days from now is likely too soon to schedule a hearing to address the completed FSE, particularly if more than a 30 minute hearing is required because the Court's docket simply will not accommodate such a hearing in such short order. It was determined that the hearing to address the FSE will be held November 23, 2015 from 10:00 a.m. to 12:00 p.m. The Notice shall issue herewith. Two (2) hours are allotted to afford ample time for testimony, if necessary.

No further Orders are warranted or made at this time. All prior Orders not inconsistent herewith remain in full force and effect.

So Ordered.

September 11, 2015  
Date

  
Hon. Jennifer A. Lemire, Presiding Justice

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County of Rockingham

NEW HAMPSHIRE  
JUDICIAL BRANCH

10<sup>th</sup> Circuit - Portsmouth Family Division

Case No. 670-2013-DM-114

In the Matter of Kimberly T. [REDACTED] and David T. [REDACTED]

**ORDER ON PROPOSED AGREEMENT**

The court held a telephonic conference with counsel and the guardian ad litem on May 6, 2016. Following the conference the court ordered that counsel review the guardian ad litem's proposed agreement with their respective clients and submit any comments regarding the proposal to the court. Counsel were ordered to indicate whether the parties support the proposed agreement, whether they request any additions or deletions to the proposal and whether they request the court to enter any additional or alternative proposed temporary orders. Following the conference, mother indicated her agreement with the proposal and signed it. Father submitted additional proposed orders, to which mother objected. Based on the submissions of the parties and the discussion at the telephonic conference, the court orders as follows.

The proposed agreement of the GAL is adopted with the following additions:

- a. Father shall be granted access to the providers for the minor children. If necessary, mother shall sign an authorization for father to have contact with the providers. Mother shall provide father with names and contact information for the children's providers.
- b. The GAL shall have access to information regarding D. [REDACTED] participation in the program. The GAL is authorized to communicate with and obtain information from the Endurance program. Both parties shall sign authorizations to the extent necessary for the GAL to obtain access.
- c. The court will hold a review hearing, which may be done telephonically unless any party requests an in person review hearing, within 90 days to evaluate progress on items identified in the order. At that time the parties should be prepared to discuss overall strategy for implementation of the recommendations, components and progress, proposed next steps, existing or anticipated impediments, if any, to working toward objectives and strategies for addressing them, and target dates. The court will also set a schedule for review conferences or hearings going forward.

Within 30 days both parties shall file current financial affidavits along with their respective views regarding prospective allocation of GAL fees. The court will consider a prospective adjustment to the allocation of GAL fees.

SO ORDERED.

Date

6/17/16

  
Suzanne M. Gorman  
Judge



STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

County of Rockingham

10<sup>th</sup> Circuit - Portsmouth Family Division

Case No. 670-2013-DM-114

In the Matter of Kimberly [REDACTED] and David [REDACTED]

ORDER

The court held a telephonic conference with counsel and the guardian ad litem (GAL) on September 22, 2016.

Since the last hearing, father has had no contact with the girls and there has been little progress toward that end. The parties' older daughter, [REDACTED], has been very disregulated. She had a neuro-psych evaluation with Dr. Laura Rubin. She has been in and out of the hospital. She was in the McLean Hospital in MA for some period of time. She has been diagnosed with bipolar, ADHD and PTSD. According to the GAL, Dr. Rubin expressed concern that there has been significant decline in intelligence since prior tests. Her cognitive skills have significantly declined. There was discussion at the conference about having a neurological consult to rule out a medical reason. Dr. Rubin does not recommend reunification until [REDACTED] has been stabilized. The GAL anticipates having the report from Dr. Rubin on or about October 10.

[REDACTED] has many needs and would benefit from a long term structured plan. Dr. Rubin recommends a daily plan with counseling and sustained treatment. A residential therapeutic treatment program may be necessary. The concern is that the child is a danger to mother and the other child as well as possibly to herself. She needs a long term program but finances are an issue for the parties. One possible option is to file a CHINS petition pursuant to RSA 169-D:2, II(d). There was also discussion of engaging an educational consultant. The GAL identified Elizabeth Hall or her associate. The estimated cost of the consultant is \$6,000. It is anticipated that mother will also apply for in home services funded by Medicaid.

With so much focus on [REDACTED] extensive needs, it is important to not overlook the needs of M [REDACTED]. There was discussion of commencing her in therapy to Kathy Forbes-Fisher who would be able to do both individual and reunification therapy.

The parties do not communicate. Mother provides information to the GAL but does not provide the same information to father. The parties discussed doing a regular email update. Mother would do the update and provide it to the GAL who can provide it to father.

Mother explained that the current interaction between the girls is problematic. D [REDACTED] lashes out. The concern is determining how to move forward in a manner that does not exacerbate the situation with D [REDACTED]. M [REDACTED] has a therapist and it is important that her input be received. On the other hand the GAL does not want to defer the decision making to M [REDACTED] therapist.

The parties essentially agree on a number of steps to be taken at this juncture. The court has included those items on which the parties agree. Having considered the input of all parties, the court orders as follows:

114

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1. Commencing November 1, 2016, mother shall provide a monthly update by email to the GAL regarding the girls, including the status of their medical and educational circumstances and treatment and any significant changes that have occurred during the preceding month, including significant physical, behavioral or mental health needs. The GAL will provide the update to father.
2. Both parties shall receive a copy of Dr. Rubin's report when it is available.
3. Both parties shall receive a copy of Dr. Johnson's report, which may be provided to them through their counsel.
4. All parties shall ensure that the children do not obtain access to any pleadings or reports in this matter.
5. Dr. Cohen of Nashua will be engaged to review [redacted] medications. Mother shall initiate within 20 days. Father shall be included in the consultation.
6. The parties shall explore inpatient residential treatment for [redacted]. The parties will consult with the stabilization team regarding the reunification process to the extent necessary to ensure that reunification is consistent with [redacted] other treatment needs.
7. The GAL will explore with the parties the possibility of filing a CHINS petition.
8. If the education consultant can be engaged for the flat fee of \$6,000, the parties will do so (unless otherwise agreed) and split the fee. Mother shall initiate within 30 days.
9. The parties shall cooperate to obtain a neuro-psych evaluation of [redacted] through Dr. Rubin, unless this can be accomplished through the IEP process or a CHINS proceeding. Mother shall initiate within 30 days, unless the cost can be covered through Medicaid, in which case the evaluation shall not be scheduled until Medicaid coverage is effective.
10. If [redacted] needs to change therapists, she will commence individual therapy and the family will engage in reunification therapy with Kathy Forbes Fisher. Both parties shall communicate with the therapist and participate in therapy as recommended by the therapist. Mother shall initiate within 20 days. The parties shall split the cost pending further adjudication of financial issues.
11. The parties shall cooperate to apply for Medicaid funded services for one or both girls. Both parties shall complete all necessary forms within 20 days.
12. The court will schedule a one hour offers of proof hearing on financial issues.

SO ORDERED.

10/13/16  
Date

  
Suzanne M. Gorman  
Judge

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RETURN OF SERVICE

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: 10th Circuit-Family Division-Portsmouth

Case Name: [REDACTED]

Case Number: 13-M-114

ORDER ON EX PARTE (EMERGENCY) MOTION

A motion for ex parte or emergency orders has been submitted. The Court has reviewed the motion.

- 1. The Court issues the following orders, which will remain in effect until further hearing:
  - A. The  Petitioner  Respondent (check one) shall have temporary sole decision-making and residential responsibility for the minor child(ren).
  - B. The  Petitioner  Respondent (check one) shall have temporary sole residential responsibility for the minor child(ren).
  - C. The  Petitioner  Respondent (check one) shall not interfere in any way with the personal liberty or property of the other nor the household property used in the care of the minor child(ren), nor do any act to interfere with the other parent's decision-making and residential responsibilities for the minor child(ren).
  - D. The  Petitioner  Respondent (check one) is awarded temporary exclusive use of the parties' residence at \_\_\_\_\_ (residence address) and household furniture and furnishings therein.
  - E. The  Petitioner  Respondent (check one) shall not enter the residence or property of the other.
  - F. Each party is restrained and enjoined from transferring, encumbering, hypothecating, concealing or otherwise disposing of any property except in the ordinary course of business or for the necessities of life.
  - G. Other: see attached order

- 2. No ex parte or emergency orders are issued - no showing of imminent danger of irreparable harm.
  - The case shall be scheduled for a prompt hearing with Petitioner and Respondent present.
  - The case shall be scheduled in the ordinary course.

3. Request for ex parte orders is denied. No hearing is required.  
A hearing on the ex parte motion, and any orders issued, is scheduled for: \_\_\_\_\_ (date of hearing) at \_\_\_\_\_ (time of hearing)

Recommended:

Date

Signature of Marital Master

Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date

11/15/16

Signature of Judge Suzanne M. Gorman

Suzanne M. Gorman  
Printed Name of Judge

117

no  
poc

M

11/16



RETURN OF SERVICE WITHIN THE STATE OF NEW HAMPSHIRE  
Outside the State of New Hampshire - complete sections 2A, 2B & 2C  
Instructions: Within New Hampshire - complete section 1  
Case Name:  
Case Numbers:

RETURN OF SERVICE

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
http://www.courts.state.nh.us

Court Name: 10th Circuit-Family Division-Portsmouth  
Case Name: [REDACTED]  
Case Number: 13-M-114

ORDER ON EX PARTE (EMERGENCY) MOTION

A motion for *ex parte* or emergency orders has been submitted. The Court has reviewed the motion.

1. The Court issues the following orders, which will remain in effect until further hearing:
- A. The  Petitioner  Respondent (check one) shall have temporary sole decision-making and residential responsibility for the minor child(ren).
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  - E. The  Petitioner  Respondent (check one) shall not enter the residence or property of the other.
  - F. Each party is restrained and enjoined from transferring, encumbering, hypothecating, concealing or otherwise disposing of any property except in the ordinary course of business or for the necessities of life.
  - G. Other: See attached order

2. No *ex parte* or emergency orders are issued - no showing of imminent danger of irreparable harm.  
 The case shall be scheduled for a prompt hearing with Petitioner and Respondent present.  
 The case shall be scheduled in the ordinary course.

3. Request for *ex parte* orders is denied. No hearing is required.  
A hearing on the *ex parte* motion, and any orders issued, is scheduled for:  
\_\_\_\_\_ (date of hearing) at \_\_\_\_\_ (time of hearing)

Recommended:

Date

Signature of Marital Master

Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date

Signature of Judge Suzanne M. Gorman

Printed Name of Judge Suzanne M. Gorman

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10<sup>th</sup> CIRCUIT

THE STATE OF NEW HAMPSHIRE  
FAMILY DIVISION - PORTSMOUTH

In the Matter of Kimberly [REDACTED] and David [REDACTED]  
Case Number 670-2013-DM-00114

RECEIVED

NOV 15 2016

10th Circuit Court  
Family-Portsmouth

EX PARTE (EMERGENCY) MOTION

NOW COMES the Petitioner, Kimberly T [REDACTED] by and through her attorneys, *sklawyers, pllc* and does respectfully move this Honorable Court to issue ex parte orders, stating in support as follows:

1. Mr. [REDACTED] violated the March 26, 2013 Ex Parte Order, the May 9, 2013 Order and the November 12, 2013 Review Hearing Order awarding Ms. [REDACTED] temporary sole decision-making and residential responsibility and suspending Mr. T [REDACTED] contact with the children when he went to the mental health hospital where the parties oldest daughter has been an inpatient for 8 weeks and tried to see her and bring her flowers and a card.
2. In addition to the three temporary orders issued in 2013 prohibiting Mr. [REDACTED] from having any contact with the girls, the Court has also issued an order approving the Guardian ad Litem's Proposed Temporary Agreement summarizing the fact that the parties' agreed to follow the recommendations of Dr. Douglas Johnson's Family Systems Assessment.
3. On Saturday, November 12, 2016 Mr. [REDACTED] knowingly and intentionally violated the Court Orders and went against all of the recommendations of every mental health professional involved in this case and showed up at the hospital. He signed in at the front desk right under the sign in for the same day of Ms. T [REDACTED] the parties' younger daughter N [REDACTED] and Ms. T [REDACTED] long-term significant other, meaning not only did he go there seeking out [REDACTED] in violation of the court orders, he was aware that N [REDACTED] was there as well. See Exhibit A attached.
4. Unfortunately, at the time Mr. [REDACTED] arrived at the hospital, Ms. [REDACTED] Rob and M [REDACTED] had taken [REDACTED] off of the locked ward where she has been a patient for the past 8 weeks and they were in the lobby and N [REDACTED] came face-to-face with Mr. [REDACTED] for the first time in nearly four (4) years.

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5. Mr. T [REDACTED] said "hello" to M [REDACTED] and came towards her and she went running and crying to her mother and sister who had to literally run and hide to avoid any further contact with Mr. T [REDACTED]. Ms. T [REDACTED]'s boyfriend Rob stayed behind and asked Mr. [REDACTED] to leave the hospital but he refused. When Rob told him that his being there would be emotionally and psychologically damaging for the girls, Mr. T [REDACTED] became belligerent and insisted that he had the right to bring his daughter flowers and a card, that he was their father and that he would never stop until his girls knew that their father loved them. He said that he would spend whatever money it took to be able to see his girls, and that the charges against him were made up lies that were fed to the girls by Rob and Ms. [REDACTED] and that all of I [REDACTED]'s mental health problems were caused by "the bad DNA from Kim's side of the family".
6. When security arrived to escort Mr. [REDACTED] off the premises the guard told Mr. [REDACTED] that he would never have allowed him to enter the building if he had known there were court orders prohibiting his contact with [REDACTED] and Mr. T [REDACTED] responded saying "As I live and breathe and stand before you there is no such document".
7. Once he was removed from the property the security and nursing staff had to help Ms. [REDACTED] return I [REDACTED] to the lockdown unit where she resides and the hospital security staff contacted Boston Police Department to file a report. See Exhibit B attached.
8. Once I [REDACTED] was safely back in her room she was very nervous because her bedroom window overlooks the main parking lot and she was worried Mr. [REDACTED] may be watching her in her window. I [REDACTED] was just as scared to leave the building worried that he was in the parking lot waiting to get her. [REDACTED] called Ms. [REDACTED] several times Saturday night after she left to talk to her for reassurance that Mr. [REDACTED] couldn't get to her and that she wasn't bad for telling on him for what he did to her. I [REDACTED] will not leave her mother's or Rob's side, she will not go into any room or building without one of them checking it first to make sure it's safe, she has had to sleep with her mother since



5. Mr. [REDACTED] said "hello" to [REDACTED] and came towards her and she went running and crying to her mother and sister who had to literally run and hide to avoid any further contact with Mr. [REDACTED]. Ms. [REDACTED]'s boyfriend Rob stayed behind and asked Mr. [REDACTED] to leave the hospital but he refused. When Rob told him that his being there would be emotionally and psychologically damaging for the girls, Mr. [REDACTED] became belligerent and insisted that he had the right to bring his daughter flowers and a card, that he was their father and that he would never stop until his girls knew that their father loved them. He said that he would spend whatever money it took to be able to see his girls, and that the charges against him were made up lies that were fed to the girls by Rob and Ms. [REDACTED] and that all of [REDACTED]'s mental health problems were caused by "the bad DNA from Kim's side of the family".
6. When security arrived to escort Mr. [REDACTED] off the premises the guard told Mr. [REDACTED] that he would never have allowed him to enter the building if he had known there were court orders prohibiting his contact with [REDACTED] and Mr. [REDACTED] responded saying "As I live and breathe and stand before you there is no such document".
7. Once he was removed from the property the security and nursing staff had to help Ms. [REDACTED] return [REDACTED] to the lockdown unit where she resides and the hospital security staff contacted Boston Police Department to file a report. See Exhibit B attached.
8. Once [REDACTED] was safely back in her room she was very nervous because her bedroom window overlooks the main parking lot and she was worried Mr. [REDACTED] may be watching her in her window. [REDACTED] was just as scared to leave the building worried that he was in the parking lot waiting to get her. [REDACTED] called Ms. [REDACTED] several times Saturday night after she left to talk to her for reassurance that Mr. [REDACTED] couldn't get to her and that she wasn't bad for telling on him for what he did to her. [REDACTED] will not leave her mother's or Rob's side, she will not go into any room or building without one of them checking it first to make sure it's safe, she has had to sleep with her mother since





the incident, and at school on Monday she would not go outside for recess without being escorted by the principal.

9. When the girls reported the sexual abuse by their father, they also disclosed that he told them that if they ever told anyone about what he did to them, he would come and get them and hurt them. Ms. T [REDACTED] has spent years assuring the girls that there are legal measures in place to keep them safe and that Mr. [REDACTED] cannot simply walk in and get them the way he threatened them that he would.
10. Mr. [REDACTED]' actions are clearly violations of the Court's multiple orders and they evidence the fact that he does not have a grasp of the reality of the Court's Orders and the significant mental health issues his daughters suffer from, and his apparent willingness to be disruptive regardless of the cost to their well-being.
11. The girls will suffer immediate and irreparable harm if the Court does not issue emergency ex-parte orders that clearly state that Mr. [REDACTED] is prohibited from having any contact, whether in person or by any other means of communication, with not only them, but also with their medical and mental healthcare providers. It is very alarming that Mr. T [REDACTED] does not recognize the Court's prior Orders, including the detailed recommendations of Dr. Johnson, and unless the Court explicitly prohibits his contact with their providers there is a significant risk that there will be another "chance" encounter if he shows up at a doctor's office or treatment facility under the guise of wanting to discuss their care.
12. Undersigned counsel notified Mr. T [REDACTED]' attorney and the Guardian ad Litem by email early in the day on Monday, November 14, 2016 and Attorney Shimer-Brenes responded by email at 5:09pm indicating that she wanted to try to resolve this without going to court because she has several other matters scheduled for Tuesday, November 15, 2016 that need to be addressed. Undersigned counsel replied by email indicating that this Ex Parte Motion would be filed early in the morning on November 15, 2016 because Ms. T [REDACTED] cannot afford to take any other time off from work.

WHEREFORE, the Petitioner respectfully prays that the Court issue the following ex parte orders:





- A. Mr. [REDACTED] is prohibited from having any contact, whether in person or by other communication methods, with the parties' daughters [REDACTED] and [REDACTED];
- B. Ms. [REDACTED] continues to have sole decision-making responsibility and Mr. [REDACTED] is prohibited from having any contact, whether in person or by other communication methods, with [REDACTED] and Marissa [REDACTED]' medical and/or mental health providers;
- C. Mr. [REDACTED] shall not come within 300 yards of [REDACTED] and [REDACTED];
- D. Mr. [REDACTED] shall not come within 300 yards of [REDACTED] and Marissa [REDACTED] medical or mental healthcare providers;
- E. Find Mr. [REDACTED] in contempt of the March 26, 2013, May 9, 2013 and November 12, 2013 Court Orders;
- F. Order Mr. [REDACTED] to pay Ms. [REDACTED] reasonable and necessary attorney's fees and costs; and
- G. For such other and further relief as is just and equitable.

Dated: 11/15/16

*[Signature]*  
 Kimberly [REDACTED]

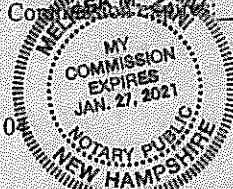
STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

Subscribed and sworn to before me at Rockingham County, State of New Hampshire on this 15 day of November, 2016.

*[Signature]*  
 Notary Public  
 My Commission Expires: [REDACTED]

By: *[Signature]*  
 Melissa M. Zani, Esq. NH Bar ID#10254  
 835 Hanover St., Unit 104, Manchester, NH 03104  
 (603) 606-2112



I certify that on this date I provided a copy of this document to Respondent's counsel, Ellen C. Shimer-Brenes, Esquire, 472 State Route 111, Village Square, Unit C-1, Hampstead, NH 03841, and to the Guardian ad Litem, Lynn A. Aaby, Esquire, 19 Hampton Road, Unit A2, Exeter, NH 03833 by email and US Mail.

*[Signature]*  
 Melissa M. Zani, Esq.

14 1 11/16 #2 M



- (A) Mr. [redacted] is prohibited from having any contact, whether in person or by other communication methods, with the parties' daughters [redacted] and [redacted] Tomaras;
- (B) Ms. [redacted] continues to have sole decision-making responsibility and Mr. [redacted] is prohibited from having any contact, whether in person or by other communication methods, with [redacted] and [redacted] [redacted] medical and/or mental health providers;
- (C) Mr. [redacted] shall not come within 300 <sup>feet</sup> yards of [redacted] and [redacted];
- D. Mr. [redacted] shall not come within 300 yards of [redacted] and Marissa [redacted] medical or mental healthcare providers;
- E. Find Mr. [redacted] in contempt of the March 26, 2013, May 9, 2013 and November 12, 2013 Court Orders;
- F. Order Mr. Tomaras to pay Ms. [redacted] reasonable and necessary attorney's fees and costs; and
- G. For such other and further relief as is just and equitable.

Dated: 11/15/16

*[Signature]*  
Kimberly T. [redacted]

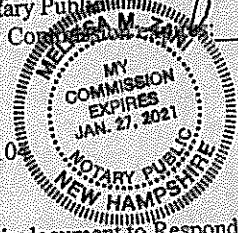
STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

Subscribed and sworn to before me at Rockingham County, State of New Hampshire on this 15 day of November, 2016.

*[Signature]*  
Notary Public  
My Commission Expires 1/27/2021

By: *[Signature]*  
Melissa M. Zani, Esq. NH Bar ID#10254  
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(603) 606-2112



I certify that on this date I provided a copy of this document to Respondent's counsel, Ellen C. Shimer-Brenes, Esquire, 472 State Route 111, Village Square, Unit C-1, Hampstead, NH 03841, and to the Guardian ad Litem, Lynn E. Aaby, Esquire, 19 Hampton Road, Unit A2, Exeter, NH 03833 by email and US Mail.

*[Signature]*  
Melissa M. Zani, Esq.

*Prayer A is granted. Prayer B is granted as modified. Prayer C is granted as modified. All other requests are reserved. Prior orders regarding protection should remain in effect. So ordered.*

*[Signature]* 11/15/16  
Suzanne M. Gorman





STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

County of Rockingham

10<sup>th</sup> Circuit - Portsmouth Family Division

Case No. 670-2013-DM-114

In the Matter of Kimberly [REDACTED] David [REDACTED]

ORDER ON EX PARTE MOTION

The court held a hearing on December 15, 2016 on the ex parte motion filed by Kimberly [REDACTED] (mother). Mother and David [REDACTED] (father) appeared at the hearing and were represented by counsel. The guardian ad litem (GAL) also appeared at the hearing.

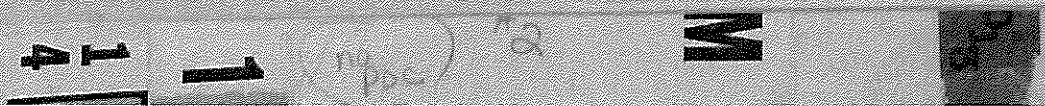
On November 12, 2016 father went to the hospital where [REDACTED] had been receiving inpatient psychiatric treatment. He planned to give [REDACTED] flowers and a card. The card essentially expressed his love for her. It is unclear if he also intended to try to see her, but he wanted to at least communicate with her in writing and leave the flowers for her. Father signed in the guest book on the same page as mother and [REDACTED]. While he was still in the lobby, [REDACTED] came through the doors and saw him coming toward her. She immediately turned back to where her mother was and told her mother that father was there. Mother took the girls back into the hospital out of contact with father. Father's unexpected presence at the hospital has caused considerable distress for the girls. Father and mother's boyfriend had words in the lobby. Eventually father was asked to leave, which he did. This is the first contact either child had had with father in a period of years. Prior orders of the court do not contemplate that father would have any contact with the girls outside of a therapeutic context. To the extent that is unclear, the court enters it as an order now.

Following a conference with counsel on September 22, 2016 the court ordered a series of steps to be taken. At this juncture it appears that the parties are no closer toward a resolution. There has been little progress toward re-establishing contact between father and the girls. Contact was not recommended until [REDACTED] was stabilized. The evidence presented at the hearing does not show that she has stabilized to a degree where the reunification process can begin. On the other hand, no medical reports were presented and the court lacks concrete information regarding the child's condition and prognosis. It appears that neither child is in a position where she is ready to have contact with father. The parties dispute the reasons for this, and the conflict between the parties is considerable and ongoing.

The GAL represented at the hearing that the conflict is such that she does not feel she can be of further assistance in the case. Neither party is in compliance with court orders. Father has engaged in therapy as recommended, but the incident in the hospital has only caused further setback. Mother has not complied with her obligations. She is adamant that father will not have contact with the children. She has not complied with therapy recommendations. She does not provide updates to father regarding the children's medical care. The providers apparently have been unwilling to provide information to father.

The GAL has requested to be discharged. She has agreed that she will remain in the case pending appointment of a master therapist. In the Family Systems Evaluation, Dr. Johnson proposed engaging a Master Family Therapist. To some extent the GAL has been carrying out the coordination role. At this point the GAL recommends and the court adopts the recommendation that the role be filled by a therapist who is familiar with the types of issues presented in this case.

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Therefore, the court orders as follows.

1. The ex parte order dated November 15, 2016 is vacated.
2. The recommendation of the GAL in the report dated December 9, 2016 are adopted.
3. All prior orders not inconsistent with this order shall remain in effect.
4. The parties are scheduled for a hearing on financial issues in January 2017. They have requested transfer to the complex docket, which the court will explore.

**SO ORDERED.**

12/16/16  
Date

  
Suzanne M. Gorman  
Judge





STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

10th Circuit - Family Division - Portsmouth  
111 Parrott Ave.  
Portsmouth NH 03801-4402

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<http://www.courts.state.nh.us>

Case Name: In the Matter of Kimberly [REDACTED] and David [REDACTED]  
Case Number: 670-2013-DM-00114

SCHEDULING ORDER FROM APRIL 7, 2017 SCHEDULING HEARING

The Court completed a telephonic scheduling conference on April 7, 2017 in this case. The parties counsel were present by phone as was the GAL. The Court used a Pre-Trial Conference Report form by mistake but a copy of that form is attached as modified as a scheduling order. The Court adds this written order just to clarify what occurred.

Counsel agreed a meeting is to take place with the intent of implementing the recommendations of Dr. Johnson's extensive Family System's Evaluation. The meeting will include the GAL, the Master Family Therapist, and each of the children's current therapists. The goal of the meeting will be to move forward with implementation of the Johnson recommendations. **A status hearing is to be scheduled within 45 days for 30 minutes to address progress.** The Court understands from those present today that the father has had no contact with the children for 4 years as a result of allegations of sexual assault involving the children, which he denies. The children have clearly struggled to deal with issues relating to the issues raised in this case. There are allegations of alienation by the mother. The parties all appear to agree that it is extremely important that the parties move forward with the Johnson recommendations. The Court does order the GAL to remain in the case at least until the next status hearing despite Judge Gorman's Order issued after the December hearing.

**So Ordered,**

April 7, 2017  
Date



Judge John T. Pendleton





NEW HAMPSHIRE  
JUDICIAL BRANCH  
http://www.courts.state.nh.us

Court Name: 10th Circuit - Family Division - Portsmouth  
Case Name: Kimberly [redacted] & David [redacted]  
Case Number: 670-2013DM-114  
(if known)

Scheduling PRE-TRIAL CONFERENCE REPORT status conf.

1. Conference relating to:
- Petition for Divorce/Legal Separation/Civil Union Dissolution
  - Parenting Petition
  - Establish Paternity/Support
  - UIFSA
  - Other: \_\_\_\_\_
- Modification of:
- Parenting Plan
  - Support/Alimony

2. Present were:
- Petitioner
  - Respondent
  - Guardian ad Litem
- Attorneys:
- Petitioner's Attorney: \_\_\_\_\_
  - Respondent's Attorney: \_\_\_\_\_
  - Other: Lynn Aaby

3. Issues:
- Parenting Rights and Responsibilities:
    - Decision-Making
    - Residential
  - Grounds
  - Child Support
  - Alimony
  - Tax Exemptions
  - Other: Complex parenting case. Father not seen children for 4 years due to allegations of sexual aslt. Parties agreed to follow Dr. Johnson's Family System Evaluation Rpt. Recommendation
- Property Distribution:
    - Real Estate
    - Personal
    - Pensions
    - Business Interest
  - Distribution of Debts
  - Health Insurance

4. Special circumstances under child support guidelines: 4 years due to allegations of sexual aslt. Parties agreed to follow Dr. Johnson's Family System Evaluation Rpt. Recommendation

5. Factors justifying sole decision-making responsibility: alimony

6. Have the parties attended CIP?  
Respondent:  Yes  No  N/A      Petitioner:  Yes  No  N/A

7. Factors justifying unequal property division:

8. Circumstances justifying alimony:





Unresolved discovery issues, and date to be resolved by: \_\_\_\_\_

Family Division Only: Rule 1.25-A disclosures complete:  Yes  No  
Other: \_\_\_\_\_

10. Valuations:
- Real Estate:  Disagree on value  Agreed upon value \$ \_\_\_\_\_
- Pension:  Disagree on value  Agreed upon value \$ \_\_\_\_\_
- Business Interest:  Disagree on value  Agreed upon value \$ \_\_\_\_\_
- Other: \_\_\_\_\_

11. Expert witness list filed by Petitioner?  Yes  No by Respondent?  Yes  No
12. Other witness list filed by Petitioner?  Yes  No by Respondent?  Yes  No
13. Pending Motions: \_\_\_\_\_

14. Have the parties engaged in mediation or other ADR?  Yes  No  
Mediation to be ordered?  Yes, see attached Order on Appointment of Mediator  No
15. Supplemental GAL report to be filed by \_\_\_\_\_

16. Length of Trial: \_\_\_\_\_ Monitor Requested:  Yes  No
17. Likelihood of Settlement: \_\_\_\_\_

18. Special circumstances affecting trial scheduling:  
*Meeting to be scheduled re/ GAL, Master Therapist children's Therapist's status hearing after meeting for 30 minutes*
19. Next conference/Date and Time: *to ensure implementation moving forward*  
 Settlement/status: *or if not why*  
 Motion: \_\_\_\_\_  
 Final Pretrial: \_\_\_\_\_  
 Final Hearing: \_\_\_\_\_  
 Other: *Further status hearing 45 Days*

Recommended: *30-45 min w/in 45 days*

Date \_\_\_\_\_ Signature of Marital Master \_\_\_\_\_  
Printed Name of Marital Master \_\_\_\_\_

**So Ordered:**  
I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date *4/7/17* \_\_\_\_\_ Signature of Judge \_\_\_\_\_  
Printed Name of Judge *John T. Pendleton* Judge

