

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08- *2130* -CD

Type of Pleading:

COMPLAINT IN DIVORCE §3301(c)
or in the alternative §3301(d)
of the Divorce Code

Filed on behalf of Plaintiff:
JOSEPH L. HESS

Counsel of record for
this party:

THE LAW OFFICES OF DWIGHT L.
KOERBER, JR.

ERIC E. CUMMINGS, ESQUIRE
PA I.D. No. 206194

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

THERE IS ONE (1) MINOR
CHILD BORN TO THIS MARRIAGE,
NAMELY, Zachary T. Hess,
(D.O.B. 07/01/2002)

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FILED *4cc*
01/3/21/08
NOV 07 2008
LM *Atty Cummings*
Atty pd.
William A. Shaw
Prothonotary/Clerk of Courts
110.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08 -CD

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you within twenty (20) days. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any relief claimed in the complaint by the plaintiff. A judgment may also be entered against you for any other claim or relief requested in these papers by plaintiff. You may lose money or property or other rights important to you, including custody or visitation of your children.

When the grounds for the divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of the marriage counselors is available in the Office of the Prothonotary at Clearfield County Courthouse, 1 North Second Street, Clearfield, Pennsylvania, 16830.

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OR PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08- -CD

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08 -CD

COMPLAINT IN DIVORCE

COMES NOW, Plaintiff, Joseph L. Hess, by and through his legal counsel, The Law Offices of Dwight L. Koerber, Jr., and files the within Complaint for Divorce against Defendant, Tammy L. Hess, pursuant to the provisions of §3301(c), and in the alternative, §3301(d) of the Divorce Code. In support thereof, Plaintiff respectfully avers and shows as follows:

(1) Plaintiff is Joseph L. Hess, an individual who resides in Clearfield County, at 423 West Locust Street Rear, Clearfield, Pennsylvania, 16830.

(2) Defendant is Tammy L. Hess, an individual who resides in Clearfield County, at 423 West Locust Street, Clearfield, Pennsylvania, 16830.

(3) There is one (1) minor child born to this marriage, to wit: Zachary T. Hess, (D.O.B. 07/02/2002).

(4) The parties hereunto are husband and wife, having been married on 07/30/1988, in Clearfield, Clearfield County, Pennsylvania.

(5) Plaintiff and Defendant are sui juris and bona fide residents of the Commonwealth of Pennsylvania for more than six (6) months immediately preceding the filing of this Complaint.

(6) Neither Plaintiff nor Defendant is in the military or naval service of the United States or its allies within the provisions of the Soldiers' and Sailors' Civil Relief Act of the Congress of 1940 and its amendments.

(7) Both Plaintiff and Defendant are American citizens.

(8) Plaintiff has been advised of the availability of marital counseling in accordance with Rules 1921.12(a)(8) and 1921.71.

(9) Through this Complaint, Defendant is advised of the availability of marital counseling in accordance with Rules 1921.12(a)(8) and 1921.71.

(10) It is the Plaintiff's belief that neither of the parties wish to pursue marriage counseling at this time.

COUNT I
DIVORCE

(11) The prior paragraphs of this Complaint are incorporated herein as though set forth in full.

(12) Plaintiff hereby states that there has been an irretrievable breakdown of this marriage between the parties, so as to warrant the entry of a no-fault divorce under §3301(c) of the Divorce Code.

(13) In the alternative, Plaintiff alleges that there is an irretrievable breakdown of the marriage within the definition of §3301(d) of the Divorce Code and states that she will pursue such a divorce if a divorce is not available pursuant to §3301(c).

(14) For the purpose of measuring the period of time that the parties have been separate and apart, Plaintiff hereby states that the parties have been separate and apart, as measured by the Divorce Code, from on or about May 7, 2008 and continuing thereafter.

WHEREFORE, Plaintiff prays this Honorable Court enter a decree in divorce, and that any and other relief be granted to Plaintiff, as requested and as is appropriate and just under the circumstances.

Respectfully submitted,

THE LAW OFFICES OF DWIGHT L.
KOERBER, JR.

By:



Eric E. Cummings, Esquire
Attorney for Plaintiff:
Joseph L. Hess

VERIFICATION

I verify that the statements made in this Complaint for Divorce are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.

Date: _____

11/3/08

Joseph L. Hess

Joseph L. Hess

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08- -CD

CERTIFICATE OF SERVICE

This is to certify that on the 7th day of November, 2008, the undersigned served a certified copy of the Complaint in Divorce in the above-captioned matter. Such document was served via United States Certified Return Receipt Mail No. 7007 2560 0002 6019 5174 upon Defendant:

Ms. Tammy L. Hess
423 West Locust Street
Clearfield, PA 16830



Eric E. Cummings, Esquire
PA I.D. No. 206194
Attorney for Plaintiff:
Joseph L. Hess

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08-2130-CD

Type of Pleading:
AFFIDAVIT OF SERVICE

Filed on behalf of Plaintiff:
JOSEPH L. HESS

Counsel of record for
this party:

THE LAW OFFICES OF DWIGHT L.
KOERBER, JR.

ERIC E. CUMMINGS, ESQUIRE
PA I.D. No. 206194

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

THERE IS ONE (1) MINOR
CHILD BORN TO THIS MARRIAGE,
NAMELY, Zachary T. Hess,
(D.O.B. 07/01/2002)

FILED
013:1060
NOV 12 2008

2cc
Amy Cummings
ER

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08-2130-CD

AFFIDAVIT OF SERVICE

I, Eric E. Cummings, Esquire state that I have served a certified copy of the Complaint for Custody filed in the above-captioned matter via United States Certified Mail No. 7007 2560 0002 6019 5174, with Return Receipt Requested, upon the Defendant at the address listed below:

Mrs. Tammy L. Hess
423 West Locust Street
Clearfield, PA 16830

Attached hereto is the Receipt for Certified Mail and the corresponding Domestic Return Receipt.



Eric E. Cummings, Esquire

Sworn to and subscribed before me this
12th day of November, 2008.



Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Brenda D. Titus, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Jan. 10, 2011

Member, Pennsylvania Association of Notaries

7007 2560 0002 6019 5174

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com


OFFICIAL USE

Postage	\$ 1.00
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.90

Postmark Here
 CLEARFIELD PA 16830
 NOV 7 2008
 USPS

Sent To
Mrs. Tammy L. Hess
 Street, Apt. No.,
 or PO Box No. 423 West Locust Street
 City, State, ZIP+4 Clearfield, PA 16830

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Mrs. Tammy L. Hess 423 West Locust Street Clearfield, PA 16830</p>	<p>3. Service Type <input checked="" type="checkbox"/> Return Receipt Requested</p> <p> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) 7007 2560 0002 6019 5174 </p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

PRAECIPE TO ENTER
APPEARANCE

FILED

DEC 16 2008

610-301-
William A. Shaw
Prothonotary/Clerk of Courts
3 cert to Att

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

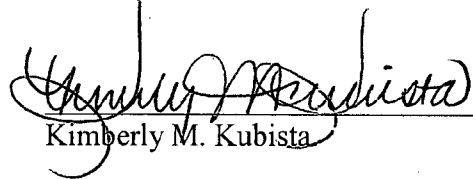
No. 08-2130-CD

PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of the Defendant in reference to the above
captioned action.

BELIN, KUBISTA & RYAN LLP


Kimberly M. Kubista

Date: 12-16-08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

ANSWER AND
COUNTERCLAIM

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED pd \$65.00
13:40 PM
DEC 29 2008
Att

William A. Shaw
Prothonotary/Clerk of Courts

ICC Att
K. Kubista
(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in Court for

<input checked="" type="checkbox"/>	Divorce	<input type="checkbox"/>	Annulment of Marriage
<input type="checkbox"/>	Support	<input checked="" type="checkbox"/>	Custody and Visitation
<input checked="" type="checkbox"/>	Division of Property	<input checked="" type="checkbox"/>	Alimony
<input checked="" type="checkbox"/>	Temporary Alimony	<input checked="" type="checkbox"/>	Attorneys Fees
<input checked="" type="checkbox"/>	Costs		

If you wish to defend against the claims set forth in the following Counterclaim, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree in divorce or annulment may be entered against you by the Court. A judgment may also be entered against you for any other claim or relief requested in these papers by the Defendant. You may lose money or property rights important to you, including custody or visitation of your children.

When the ground for divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary of Clearfield County, Clearfield County Courthouse, Clearfield, Pennsylvania

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641, Ext. 1300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

No. 08-2130-CD

TAMMY L. HESS,
Defendant

ANSWER TO COMPLAINT
AND COUNTERCLAIM

NOW COMES the Defendant, TAMMY L. HESS, by and through her attorneys, Belin, Kubista & Ryan LLP and sets forth the following Answer to Complaint and Counterclaim, and in support thereof would aver as follows:

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted in part and denied in part. It is admitted that there is one minor child born to this marriage; however, it is denied that the minor child's birthday is July 2, 2002. The child's correct date of birth is July 1, 2002.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted.
8. Paragraph 8 is admitted.
9. Paragraph 9 is admitted.
10. Paragraph 10 is admitted.

COUNT I – DIVORCE

11. Paragraph 11 -- no answer required.
12. Paragraph 12 is admitted.
13. Paragraph 13 is admitted.
14. Paragraph 14 is admitted.

WHEREFORE, Defendant requests Your Honorable Court to enter a decree in divorce.

COUNTERCLAIM

NOW COMES the Defendant, TAMMY L. HESS, by and through her attorneys, Belin, Kubista & Ryan LLP, and sets forth the following Counterclaim, and in support thereof would aver as follows:

COUNT II -- EQUITABLE DISTRIBUTION

15. Paragraphs 1 through 14 of this Counterclaim are incorporated herein by reference and made a party hereof as though set forth in full.

16. Plaintiff and Defendant have legally and beneficially acquired property both real and personal during their marriage from July 30, 1998 until the date of separation, May 7, 2008.

17. Plaintiff and Defendant have been unable to agree to an equitable division of said property to the date of the filing of this Complaint.

18. That an Inventory and Appraisement of all property owned or possessed by Defendant will be supplied in accordance with the Divorce Code.

WHEREFORE, Defendant requests Your Honorable Court to equitably divide all marital property.

COUNT III -- CUSTODY

19. Paragraphs 1 through 18 of Defendant's Answer are incorporated herein by reference as though set forth in full.

20. Defendant seeks physical custody of the following child:

Zachary Taylor Hess, d.o.b. 7/1/02

21. The child was born in wedlock.

22. The child is presently in the custody of Defendant.

23. The mother of the child is Tammy L. Hess.

24. The father of the child is Joseph L. Hess.

25. Defendant has not participated as a party or witness, or in any capacity, in other litigation concerning the custody of the child in this or another court.

26. Defendant has no information of a custody proceeding concerning the child pending in a court of this Commonwealth.

27. Defendant does not know of a person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

28. The best interest and permanent welfare of the child will be served by granting Defendant primary physical custody as she has been the primary caretaker of the child since his birth and can provide a more stable environment conducive to the best interest of the child.

WHEREFORE, Defendant requests Your Honorable Court to grant physical custody of the child to Defendant subject to Plaintiff's periods of partial custody with the parties sharing legal custody.

COUNT V – ALIMONY, ALIMONY PENDENTE LITE

29. Paragraphs 1 through 28 of this Counterclaim are incorporated herein by reference as though set forth in full.

30. Defendant lacks sufficient property to provide for her reasonable means and is unable to support herself.

31. Defendant requires reasonable support to adequately maintain herself in accordance with the standard of living established during the marriage.

33. Defendant believes and therefore avers that Plaintiff is gainfully employed and is capable of supporting the Defendant.

WHEREFORE, Defendant requests Your Honorable Court to enter an award of reasonable alimony until final hearing and permanently thereafter.

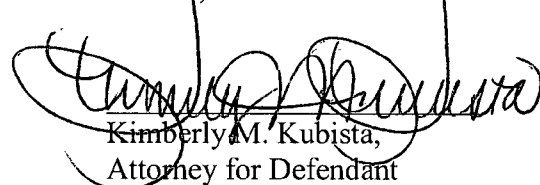
COUNT VI - ATTORNEY'S FEES, COSTS AND EXPENSES

34. Paragraphs 1 through 33 of this Counterclaim are incorporated herein by reference and made a part hereof as though set forth in full.

35. Defendant has employed Kimberly M. Kubista as counsel in this divorce action but is unable to pay the necessary and reasonable attorneys fees for said counsel and the expense and costs of this action.

WHEREFORE, Defendant requests Your Honorable Court to enter an award of temporary counsel fees, costs and expenses as are deemed appropriate.

BELIN, KUBISTA & RYAN LLP


Kimberly M. Kubista,
Attorney for Defendant

I verify that the statements made in the foregoing pleading are true and correct.

I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

12/24/08
Date

Tammy L. Hess
Tammy L. Hess

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

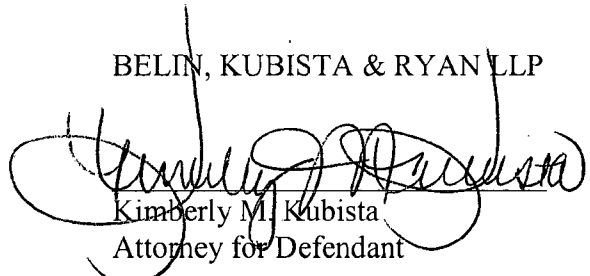
No. 08-2130-CD

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of Answer and Counterclaim by first-class, postage prepaid mail on the 29th day of December, 2008 to the following:

Eric Cummings, Esquire
110 North Second Street
Clearfield, PA 16830

BELIN, KUBISTA & RYAN LLP


Kimberly M. Kubista
Attorney for Defendant

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08-2130-CD

Type of Pleading:
PLAINTIFF'S ANSWERS TO
DEFENDANT'S COUNTERCLAIMS AND
PLAINTIFF'S NEW MATTER AND
COUNTERCLAIMS

Filed on behalf of Plaintiff:
JOSEPH L. HESS

Counsel of record for
this party:

THE LAW OFFICES OF DWIGHT L.
KOERBER, JR.

ERIC E. CUMMINGS, ESQUIRE
PA I.D. No. 206194

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

01/31/08 4 CC
FEB 12 2009

William A. Shaw
Prothonotary/Clerk of Courts

Atty Cummings
(64)

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08-2130-CD

**PLAINTIFF'S ANSWER TO DEFENDANT'S COUNTERCLAIMS AND PLAINTIFF'S
NEW MATTER AND COUNTERCLAIMS**

NOW COMES, Plaintiff, Joseph L. Hess, by and through his legal counsel, The Law Offices of Dwight L. Koerber, Jr., and sets forth the following Answer to Defendant's Counterclaims and Plaintiff's New Matter and Counterclaims, and in support thereof would aver as follows:

PLAINTIFF'S ANSWER TO COUNTERCLAIMS

COUNT II - EQUITABLE DISTRIBUTION

- (15) No Answer is required to Paragraph 15.
- (16) Admitted.
- (17) Admitted.
- (18) Admitted.

WHEREFORE, Plaintiff requests Your Honorable Court to equitably divide all marital property.

COUNT III - CUSTODY

- (19) No Answer is required for Paragraph 19.

(20) No Answer is required as it calls for legal conclusion. To the extent that an Answer is required, see Plaintiff's Counterclaim for primary physical custody which is incorporated herein by reference. It is admitted that Plaintiff and Defendant's child's name is Zachary Taylor Hess (D.O.B. 07/01/2002).

(21) Admitted.

(22) Denied. Presently, said minor child is primarily in the Plaintiff's care. See Plaintiff's Counterclaim for Custody.

(23) Admitted.

(24) Admitted.

(25) Admitted.

(26) Admitted.

(27) Admitted.

(28) Denied. This paragraph is denied insofar as it calls for a legal conclusion. To the extent that this allegation warrants Plaintiff's Answer, Plaintiff submits that the best interest and welfare of the said child will be served by granting primary physical custody to Plaintiff. Indeed, Plaintiff has been the primary caretaker of said minor child since his birth and can provide a more stable environment conducive to the best interest of said minor child. Furthermore, see Plaintiff's Counterclaim for Custody.

WHEREFORE, Plaintiff requests Your Honorable Court deny Defendant's request for physical custody of said minor child, while granting the parties shared legal custody.

COUNT V - ALIMONY, ALIMONY PENDENTE LITE

(29) No Answer is required to Paragraph 29.

(30) Denied. To the contrary, Defendant maintains sufficient property interests and income to provide reasonable means of support for herself. Furthermore, see Plaintiff's New Matter and Counterclaim for Alimony and Alimony Pendente Lite which are incorporated herein by reference.

(31) Denied. Defendant maintains a number of academic degrees relating to higher education and stable employment so as to support her standard of living established during the marriage. Furthermore, see Plaintiff's New Matter and Counterclaim for Alimony and Alimony Pendente Lite which are incorporated herein by reference.

(33) Denied. Plaintiff is not so gainfully employed that he is capable of supporting Defendant. In fact, Plaintiff is an independent contractor whose income is subject to variation and is determined by uncontrollable economic conditions in the local community.

WHEREFORE, Plaintiff requests Your Honorable Court deny Defendant's request for reasonable alimony pendente lite and alimony which would continue thereafter.

COUNT VI - ATTORNEY'S FEES, COSTS AND EXPENSES

(34) No Answer is required to Paragraph 34.

(35) Admitted in part and denied in part. It is denied that Defendant is unable to pay necessary and reasonable attorney's fees for her choice of counsel and the expense and costs of this action. See Plaintiff's New Matter and Counterclaim pertaining to Attorney's Fees, Costs and Expenses which are incorporated herein by

reference. It is admitted that Kimberly M. Kubista, Esquire, has been retained by Defendant.

WHEREFORE, Plaintiff requests Your Honorable Court to deny any request by Defendant for temporary counsel fees, costs and expenses.

PLAINTIFF'S NEW MATTER AND COUNTERCLAIMS

NOW COMES, Plaintiff, Joseph L. Hess, by and through his legal counsel, The Law Offices of Dwight L. Koerber, Jr., and sets forth the following New Matter and Counterclaims, and in support thereof, would aver as follows:

PLAINTIFF'S NEW MATTER

(36) Paragraphs 15 through 35 of this pleading are incorporated herein by reference and made part hereof as though set forth in full.

(37) Throughout the pendency of the marriage between the parties, Defendant, through her own volition, separated from Plaintiff three (3) separate times, thereby intentionally jeopardizing the parties' covenant of marriage.

(38) Defendant forced Plaintiff to file a Complaint in Divorce by and through her words and actions throughout their marriage.

(39) In light of the fact that Defendant caused irreconcilable differences to arise and forced Plaintiff to file a Complaint in Divorce, Plaintiff prays that Defendant be estopped from claiming alimony, alimony pendente lite, compensation for reasonable attorney's fees, costs and expenses.

(40) Ultimately, Defendant unilaterally facilitated and forced this action in divorce and should thereby be estopped from claiming the above-mentioned claims.

WHEREFORE, Plaintiff respectfully requests Your Honorable Court grant Plaintiff's New Matter, thereby estopping Defendant from requesting an award of alimony, alimony pendente lite, reasonable attorney's fees, costs and expenses.

PLAINTIFF'S COUNTERCLAIMS

COUNT VII - CUSTODY

(41) Paragraphs 15 through 40 of this pleading are incorporated herein by reference and made part hereof as though set forth in full.

(42) Plaintiff seeks primary physical custody of the following child: Zachary Taylor Hess (D.O.B. 07/01/2002).

(43) Said minor child was born in wedlock.

(44) The Mother of said child is Tammy L. Hess.

(45) The Father of said child is Joseph L. Hess.

(46) Plaintiff has not participated as a party or witness, or in any capacity, in other litigation concerning the custody of the said minor child in this or another Court.

(47) Plaintiff has no information of a custody proceeding concerning the minor child pending in another Court of this Commonwealth.

(48) Plaintiff does not know of a person a party to the proceeding who has physical custody of said minor child or claims to have custody or visitation rights with respect to said minor child.

(49) Said minor child is presently in the physical custody of both parties. However, seeing that Plaintiff transports said minor child to all recreational events, transports said child to and from school, transports said minor child to church and

spends time as the primary caretaker for said minor child, the best interest of said minor child would be served if Plaintiff was granted primary physical custody.

(50) The best interest and permanent welfare of said minor child will be served by granting Plaintiff primary physical custody as he has been the primary caretaker of said child since his birth and can provide a more stable environment conducive to the best interest of said minor child.

WHEREFORE, Plaintiff respectfully requests Your Honorable Court grant physical custody of said minor child to Plaintiff, subject to Defendant's periods of partial custody, with the parties sharing legal custody.

COUNT VIII - ALIMONY AND ALIMONY PENDENTE LITE

(51) Paragraphs 15 through 50 of this pleading are incorporated herein by reference and made part hereof as though set forth in full.

(52) Plaintiff lacks sufficient property interests and income to provide for his reasonable means and is unable to support himself.

(53) Plaintiff requires reasonable support to adequately maintain himself in accordance with the standard of living established during the marriage.

(54) Plaintiff believes and therefore avers that Defendant is gainfully employed, maintains a highly beneficial earning capacity which she is seeking to further enhance in the near future and is capable of supporting Plaintiff.

WHEREFORE, Plaintiff respectfully request Your Honorable Court to enter an award of reasonable alimony until final hearing and permanently thereafter.

COUNT XI - ATTORNEY'S FEES, COSTS AND EXPENSES

(55) Paragraphs 15 through 54 of this pleading are incorporated herein by reference and made part hereof as though set forth in full.

(56) Through Defendant's blatant words and actions, Plaintiff was effectively forced to file a Divorce Complaint.

(57) In response to Defendant's words and actions, Plaintiff has employed Eric E. Cummings as counsel in this divorce action, but is unable to pay the necessary and reasonable attorney's fees for said counsel and the expense and costs of this action.

WHEREFORE, Plaintiff respectfully requests Your Honorable Court to enter an award of temporary counsel fees, costs and expenses as are deemed just and appropriate.

Respectfully submitted,

THE LAW OFFICES OF DWIGHT
L. KOERBER, JR.

By: 

Eric E. Cummings, Esquire

Attorney for Plaintiff:

Joseph L. Hess

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08-2130-CD

VERIFICATION

I verify that the statements made in this Plaintiff's Answers to Defendant's Counterclaims and Plaintiff's New Matter and Counterclaims are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.

Date: 2/4/08


Joseph L. Hess, Plaintiff

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 08-2130-CD

CERTIFICATE OF SERVICE

I certify that on this 12th day of February, 2009, the undersigned served a certified copy of Plaintiff's Answers to Defendant's Counterclaims and Plaintiff's New Matter and Counterclaims in the above captioned matter. Such document was served via U.S. First Class Mail, Postage Prepaid, upon counsel for Defendant:

Kimberly M. Kubista, Esquire
Belin, Kubista & Ryan
15 North Front Street
P.O. Box 1
Clearfield, PA 16830



Eric E. Cummings, Esquire
Attorney for Plaintiff, Joseph L. Hess

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

CONSENT ORDER

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

FILED

4cc
08/21/08
FEB 24 2009
5

William A. Shaw
Prothonotary/Clerk of Courts

Kim Kubista
610

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

CONSENT ORDER

NOW THIS 24th day of February, 2009, upon agreement of the parties, it is hereby ORDERED and DECREED as follows:

1. Tammy L. Hess, hereinafter "Mother" and Joseph L. Hess, hereinafter "Father" are the parents of one (1) minor child; namely, Zachary Taylor Hess, d.o.b. 7/1/02.
2. Mother shall have primary physical custody while Mother and Father shall share legal custody of the child. In regard to the parties having joint legal custody of the child, the Court follows the definitions provided by Pa.R.C.P. 1915.1(b) which states that "legal custody means the legal right to make major decisions affecting the best interest of the minor child, including but not limited to, medical, religious and educational decisions" and wherein each parent shall have equal access to any and all medical, dental, school and legal records. Medical and dental providers – as well as school administrations – shall accept this Order as authorization to release documentation to each parent. In addition, it is understood by both parents, that they shall communicate fully with the other in an effort to assure that all directives pertaining to the minor child from physicians, dentists and teachers are followed absolutely and all information pertaining to any prescriptions the child is on is exchanged between the parties.

3. Father shall have partial custody of the child two (2) overnights each week with said overnights to be agreed upon by the parties from 5:00 p.m. until the following morning when Father will take the child to school.

4. Father shall have partial custody of the child each Saturday from 2:00 p.m. until Sunday at 5:00 p.m.

5. Both parties shall assure that the child gets to all extra-curricular activities during their periods of custody.

6. The parties shall share the holidays as follows unless otherwise agreed to between the parties:

i. Easter – In even numbered years, Mother shall have partial custody from the Friday before Easter at 4:00 p.m. until 2:00 p.m. on Easter Sunday. Father shall have custody from 2:00 p.m. until 8:00 p.m. on Easter Sunday. In odd numbered years, Father shall have the custody from the Friday before Easter at 4:00 p.m. until 2:00 p.m. on Easter Sunday. Mother shall have partial custody from 2:00 p.m. until 8:00 p.m. on Easter Sunday.

ii. Thanksgiving – In even numbered years, Father shall have custody from 4:00 p.m. the day before Thanksgiving until 2:00 p.m. on Thanksgiving Day. Mother shall have partial custody from 2:00 p.m. on Thanksgiving Day until 8:00 p.m. the Sunday following Thanksgiving. In odd numbered years, Mother shall have partial custody from 4:00 p.m. the day before Thanksgiving Day until 2:00 p.m. on Thanksgiving Day. Father shall have custody from 2:00 p.m. on Thanksgiving Day until 8:00 p.m. the Sunday following Thanksgiving.

iii. Christmas – In even numbered years, Mother shall have custody from 4:00 p.m. the day before Christmas until 2:00 p.m. on Christmas Day. Father shall have custody from 2:00 p.m. on Christmas Day until 6:00 p.m. on December 28th. Mother shall

then have custody from 6:00 p.m. on December 28th until 4:00 p.m. on December 31st. In odd numbered years, Father shall have custody from 4:00 p.m. the day before Christmas until 2:00 p.m. on Christmas Day. Mother shall have custody from 2:00 p.m. on Christmas Day until 6:00 p.m. on December 28th. Father shall then have custody from 6:00 p.m. on December 28th until 4:00 p.m. on December 31st.

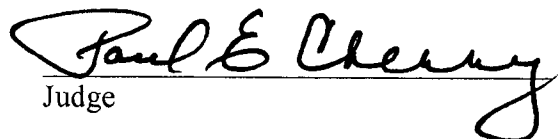
iv. The parties shall alternate the minor holidays of New Years Day, Memorial Day, Independence Day (Fourth of July) and Labor Day. In odd numbered years, Mother shall have custody on New Year's Day and the Fourth of July and Father shall have custody on Memorial Day and Labor Day. In even numbered years, Father shall have custody on New Year's Day and the Fourth of July and Mother shall have custody on Memorial Day and Labor Day. The party entitled to possession shall have the child from 9:00 a.m. until 8:00 p.m. In the event that a parent is entitled to possession of the child on a holiday which falls on a Monday and that parent is also entitled to the immediately preceding weekend, that parent shall then be able to maintain the child over Sunday evening.

v. Mother shall always have custody of the child for the weekend of Mother's Day and Father shall always have custody of the child for the weekend that includes Father's Day.



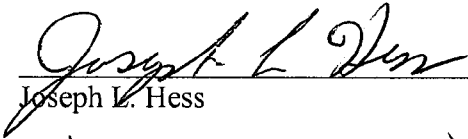
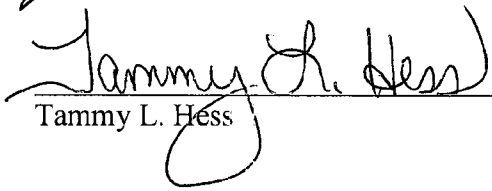
7. Holiday periods of custody shall take precedence over the regularly scheduled periods of custody.

8. Father shall have such other periods of custody as the parties can agree.

BY THE COURT


Judge

We hereby stipulate to the above set forth Consent Order.


Eric Cummings
Kimberly M. Kubista
Joseph L. Hess
Tammy L. Hess

FILED

FEB 24 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 2/24/09

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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No. 08-2130-CD

ANSWER TO NEW MATTER AND
COUNTERCLAIM

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

FILED

07/04/09
MAR 02 2009

William A. Shaw
Prothonotary/Clerk of Courts

1cc
Atty K. Kubista

(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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:
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No. 08-2130-CD

ANSWER TO NEW MATTER
AND COUNTERCLAIM

NOW COMES the Defendant, TAMMY L. HESS, by and through her attorneys, Belin, Kubista & Ryan LLP and sets forth the following Answer to New Matter and Counterclaim, and in support thereof would aver as follows:

36. Paragraph 36 – no answer required.

37. Paragraph 37 is admitted that throughout the pendency of the marriage, the parties had separated three (3) separate times.

38. Paragraph 38 is denied. Plaintiff was not forced to file for divorce.

39. Paragraph 39 is denied that Defendant caused irreconcilable differences and forced Plaintiff to file the complaint.

40. Paragraph 40 is denied as Defendant has every right to assert whatever claims are available to her pursuant to the Pennsylvania Divorce Code.

WHEREFORE, Defendant respectfully requests Your Honorable Court to deny Plaintiff's New Matter and to grant the claims set forth in Defendant's Counterclaim previously filed.

PLAINTIFF'S COUNTERCLAIMS

COUNT VII – CUSTODY

41. Paragraph 41 – no answer required.

42. Paragraph 42 is admitted.

43. Paragraph 43 is admitted.

44. Paragraph is admitted.

45. Paragraph 45 is admitted.

46. Paragraph 46 is admitted.

47. Paragraph 47 is admitted.

48. Paragraph 48 is admitted.

49. Paragraph 49 is denied. To the contrary, it has been Mother who has been the primary nurturing parent to the child since birth and the parents have shared in transportation duties with the child.

50. Paragraph 50 is denied that the best interest and permanent welfare of said minor child will be served by granting Plaintiff primary physical as he has not been the primary caretaker of said child since his birth and cannot provide a more stable environment than Mother conducive to the best interest of said minor child.

WHEREFORE, Defendant respectfully requests Your Honorable Court to deny Plaintiff's prayer for relief and grant the relief requested in Defendant's Counterclaim.

COUNT VIII – ALIMONY AND ALIMONY PENDENTE LITE

51. Paragraph 51 – no answer required.

52. Paragraph 52 is denied that Plaintiff lacks sufficient property interests and income to provide for his reasonable means and is unable to support himself.

53. Paragraph 53 is denied that Plaintiff requires reasonable support to adequately maintain himself in accordance with the standard of living established during the

marriage.

54. Paragraph 54 is admitted in part and denied in part. It is admitted that Defendant is employed; however, it is the Plaintiff who has superior earning capacity to support himself and the Defendant.

WHEREFORE, Defendant respectfully requests Your Honorable Court to deny Plaintiff's request for alimony.

COUNT XI – ATTORNEY'S FEES, COSTS AND EXPENSES

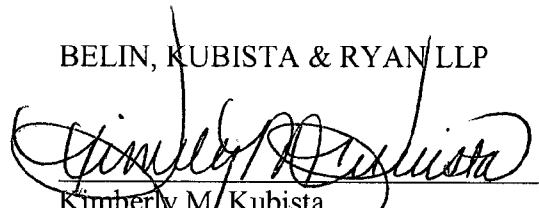
55. Paragraph 55 – no answer required.

56. Paragraph 56 is denied that Plaintiff was forced to file a Divorce Complaint through Defendant's blatant words and actions.

57. Paragraph 57 is denied that Plaintiff is unable to pay the necessary and reasonable attorney's fees for said counsel and the expense and costs of this action.

WHEREFORE, Defendant respectfully requests Your Honorable Court to deny Plaintiff's request for counsel fees, costs and expenses.

BELIN, KUBISTA & RYAN LLP



Kimberly M. Kubista,
Attorney for Defendant

I verify that the statements made in the foregoing pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

2/27/09
Date

Tammy L. Hess
Tammy L. Hess

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

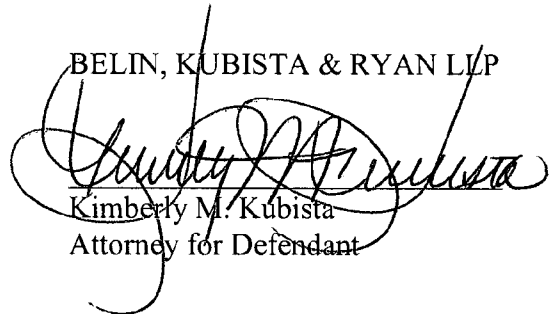
No. 08-2130-CD

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of Answer to New
Matter and Counterclaim by first class, postage prepaid mail on the 2nd March day of ~~February~~, 2009
to the following:

Eric Cummings, Esquire
110 North Second Street
Clearfield, PA 16830

BELIN, KUBISTA & RYAN LLP



Kimberly M. Kubista
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

STIPULATION

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

FILED

014'00/304
MAR 12 2009

Kimberly M. Kubista

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

No. 08-2130-CD

TAMMY L. HESS,
Defendant

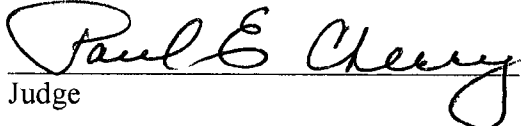
STIPULATION

NOW THIS 12th day of March, 2009, upon agreement of the parties, it is hereby ORDERED and DECREED as follows:


1. Plaintiff, JOSEPH L. HESS, shall pay to Defendant, TAMMY L. HESS, the sum of \$500.00 per month for the support of their minor child, Zachary Taylor Hess, and \$250.00 per month for spousal support. Said amounts to be paid to Defendant, TAMMY L. HESS, by the 1st day of each month.

2. It is further agreed that the parties shall alternate the minor child for tax dependency purposes in that Plaintiff, JOSEPH L. HESS, shall claim the child for tax year 2008 and Defendant, TAMMY L. HESS, shall claim the child for tax year 2009 alternating thereafter until such time as the child reaches the age of majority.


BY THE COURT


Judge

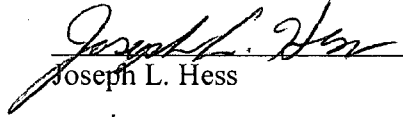
We hereby agree to the above set forth Stipulation.



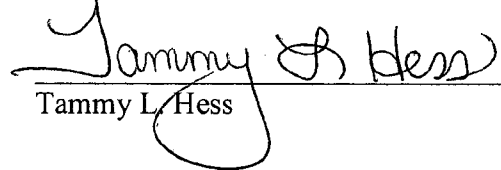
Eric Cummings



Kimberly M. Kubista



Joseph L. Hess



Tammy L. Hess

FILED

MAR 12 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/12/09

☒ You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

AMENDED COUNTERCLAIM TO
DIVORCE COMPLAINT

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

FILED

0 3:16 p.m. 6L
OCT 04 2010 3CC Atty
60

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in Court for

<input checked="" type="checkbox"/>	Divorce	<input type="checkbox"/>	Annulment of Marriage
<input type="checkbox"/>	Support	<input type="checkbox"/>	Custody and Visitation
<input type="checkbox"/>	Division of Property	<input type="checkbox"/>	Alimony
<input type="checkbox"/>	Temporary Alimony	<input type="checkbox"/>	Attorneys Fees
<input type="checkbox"/>	Costs		

If you wish to defend against the claims set forth in the following Counterclaim, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree in divorce or annulment may be entered against you by the Court. A judgment may also be entered against you for any other claim or relief requested in these papers by the Defendant. You may lose money or property rights important to you, including custody or visitation of your children.

When the ground for divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary of Clearfield County, Clearfield County Courthouse, Clearfield, Pennsylvania

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641, Ext. 1300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

AMENDED COUNTERCLAIM
TO DIVORCE COMPLAINT

NOW COMES the Defendant, TAMMY L. HESS, by and through her attorneys, Belin, Kubista & Ryan LLP and sets forth the following Amended Counterclaim, and in support thereof would aver as follows:

COUNT VI – DIVORCE UNDER 3301(c) and (d)

35. Paragraphs 1 through 34 of Defendant's Answer and Counterclaim are incorporated herein by reference as though set forth in full.

36. That Plaintiff and Defendant have been bona fide residents in the Commonwealth for at least six months immediately previous to the filing of this Complaint.

37. That the Plaintiff and Defendant were married on July 30, 1988 in Clearfield, Clearfield County, Pennsylvania.

38. That there were was one (1) prior action in divorce; however, the same was discontinued.

39. The marriage is irretrievably broken.


40. There has been an irretrievable breakdown of the marriage relationship of the parties within the meaning of Act No. 26, Sections 3301(c) and (d) of the Commonwealth of Pennsylvania of 1980. Also, at the appropriate time, Plaintiff may submit

an Affidavit alleging that the parties have lived separate and apart for at least two (2) years.

41. The Plaintiff has been advised that counseling is available and that Plaintiff may have the right to request that the Court require the parties to participate in counseling.

WHEREFORE, Plaintiff requests Your Honorable Court to enter a Decree in Divorce, divorcing Plaintiff and Defendant absolutely.

BELIN, KUBISTA & RYAN LLP


Kimberly M. Kubista,
Attorney for Defendant

I verify that the statements made in the foregoing pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

9/30/10
Date

Tammy L. Hess
Tammy L. Hess

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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:

No. 08-2130-CD

MOTION FOR BIFURCATION

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

FILED

0 10:57 a.m. 6K
NOV 08 2010

3cc Atty

4

William A. Shaw
Prothonotary/Clerk of Courts

(LW)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

NOTICE

A Petition or Motion has been filed against you in Court. If you wish to defend against the claims set forth in the following pages, you must take action on or before _____ by entering a written appearance personally or by attorney and filing (Rule Returnable) in writing with the Court your defenses or objections to the matter set forth against you. You are warned that if you fail to do so the case may proceed without you and an order may be entered against you by the Court without further notice for relief requested by Movant. You may lose rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
Market & Second Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

MOTION FOR BIFURCATION


NOW COMES the Movant, TAMMY L. HESS, by and through her attorneys Belin, Kubista & Ryan LLP and sets forth the following Motion for Bifurcation, and in support thereof would aver as follows:

1. Movant is Tammy L. Hess, Defendant in the above set forth action.
2. Respondent is Joseph L. Hess, Plaintiff in the above set forth action.
3. That the parties separated on November 7, 2008 and have continued to live separate and apart in excess of two (2) years.
4. That bifurcation of this action will in no way prejudice either party's right to continue to litigate economic issues nor will it prejudice their right to equitable distribution of the marital estate.
5. That Movant requests that a divorce decree be entered retaining jurisdiction over all ancillary issues in this matter in order that she may proceed to conclude this matter.

WHEREFORE, Movant respectfully requests Your Honorable Court to issue a rule to the Respondent to show cause why this case should not be bifurcated with the Court

retaining jurisdiction over all economic issues.

BELIN, KUBISTA & RYAN LLP


Kimberly M. Kubista

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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No. 08-2130-CD

AFFIDAVIT UNDER SECTION 3301(D)

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

FILED

010:56 a.m. GF
NOV 08 2010

William A. Shaw
Prothonotary/Clerk of Courts

3cc Atty
WAS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

NOTICE TO THE PLAINTIFF

If you wish to deny any of the statements set forth in this affidavit, you must file a counter-affidavit within twenty (20) days after this affidavit has been served on you or the statements will be admitted.

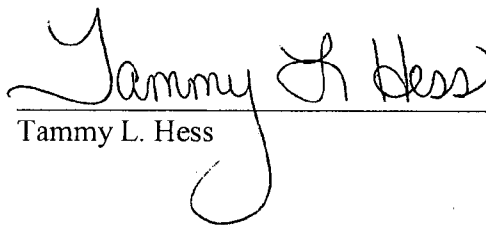
AFFIDAVIT UNDER SECTION 3301(d)
OF THE DIVORCE CODE

1. The parties to this action separated on November 7, 2008 and have continued to live separate and apart for a period of at least two years.
2. The marriage is irretrievably broken.
3. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date:

11/8/10


Tammy L. Hess

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

No. 08-2130-CD

TAMMY L. HESS,
Defendant

COUNTER-AFFIDAVIT UNDER
SECTION 3301(d) OF THE DIVORCE CODE

1. Check either (a) or (b)

(a) I do not oppose the entry of a divorce decree. []

(b) I oppose the entry of a divorce decree because
(Check (i), (ii), or (both))

(i) The parties to this action have not lived separate and apart
for a period of at least two years. []

(ii) The marriage is not irretrievably broken. []

2. Check either (a) or (b):

(a) I do not wish to make any claims for economic relief. I understand that I
may lose rights concerning alimony, division of property, lawyer's fees or expenses
if I do not claim them before a divorce is granted. []

(b) I wish to claim economic relief which may include alimony, division of
property, lawyer's fees or expenses or other important rights. []

I understand that in addition to checking (b) above, I must also file all of my economic
claims with the prothonotary in writing and serve them on the other party. If I fail to do so before
the date set forth on the Notice of Intention to Request Divorce Decree, the divorce decree may be
entered without further notice to me, and I shall be unable thereafter to file any economic claims.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

Date: _____

Joseph L. Hess

NOTICE: IF YOU DO NOT WISH TO OPPOSE THE ENTRY OF A DIVORCE DECREE AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

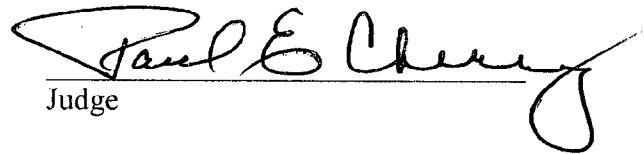
RULE

AND NOW, this 9th day of November, 2010

upon consideration of the attached Motion, is hereby ORDERED and DIRECTED that a rule be issued upon Respondent to show cause why said Motion should not be granted.

Rule returnable and a hearing thereon the 10th day of December, 2010, at 2:00 pm at the Clearfield County Courthouse, Courtroom 2. 1/2 hour has been allotted for this hearing.

BY THE COURT


Judge

FILED 300
03:00 PM
NOV 09 2010
Atty K. Kubista

William A. Shaw
Prothonotary & Clerk of Courts (64)

FILED

NOV 09 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/19/10

X You are responsible for serving all appropriate parties.
The Prothonotary's office has provided service to the following parties:
 Plaintiff(s) Plaintiff(s) Attorney Other
 Defendant(s) Defendant(s) Attorney
 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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:

No. 08-2130-CD

CERTIFICATE OF SERVICE

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

NOV 12 2010

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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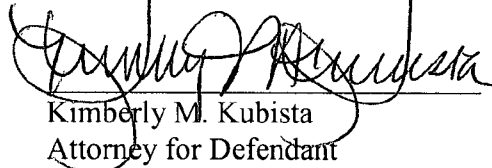
No. 08-2130-CD

CERTIFICATE OF SERVICE

This is to certify that I have served a certified copy of Motion for Bifurcation and Rule by first class, postage prepaid mail on the 10th day of November, 2010 to the following:

Eric Cummings, Esquire
P.O. Box 1320
Clearfield, PA 16830

BELIN, KUBISTA & RYAN LLP


Kimberly M. Kubista
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

STIPULATION AND ORDER FOR
BIFURCATION

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

5
FILED 400
010:06301 Amy K. Kubista
DEC 10 2010
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

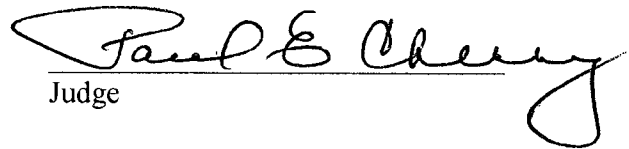
TAMMY L. HESS,
Defendant

No. 08-2130-CD

ORDER AND STIPULATION FOR BIFURCATION

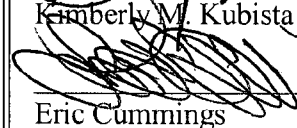
AND NOW, to wit: this 9th day of December, 2010, upon Stipulation of the parties, it is ORDERED that the divorce action filed in the above captioned matter shall be and is hereby bifurcated from all other pending issues and the Court shall enter an appropriate Decree of Divorce upon the parties filing the appropriate documentation; and further in accordance with said Stipulation, the Court shall and hereby does retain jurisdiction over all other matters and issues raised or pending in these proceedings.

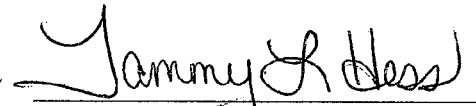
BY THE COURT:

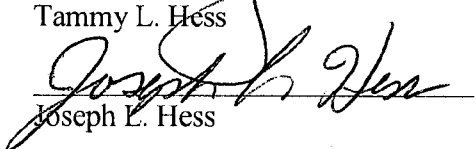

Judge

We hereby stipulate to the above set forth Order.


Kimberly M. Kubista


Eric Cummings


Tammy L. Hess


Joseph L. Hess

FILED

DEC 10 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/10/10

☒ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s) _____ Plaintiff's Attorney _____ Other

_____ Defendant(s) _____ Defendant's Attorney

_____ Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

PRAECIPE TO TRANSMIT THE
RECORD, AFFIDAVITS OF CONSENT
AND WAIVERS OF NOTICE

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

FILED
013:04301
DEC 08 2010
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

PRAECIPE TO TRANSMIT RECORD

TO THE PROTHONOTARY:

Transmit the record, together with the following information, to the Court for entry of a divorce decree:

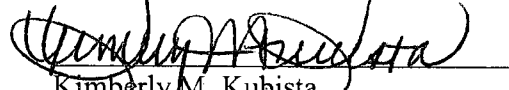
1. That grounds for said Divorce were that there has been an irretrievable breakdown of the marriage relationship of the parties within the meaning of Section 3301(c) of the Divorce Code.

2. A Complaint under Section 3301(c) was served on Defendant by certified mail, return receipt requested on the 7th day of November 2008, at 423 West Locust Street, Clearfield, Pennsylvania 16830.

3. That Affidavits of Consent and Waivers of Notice of Intention to said Divorce have been executed by Plaintiff and Defendant on December 7, 2010.

4. Related claims pending: Equitable Distribution, Alimony, Alimony Pendente Lite, Counsel Fees, Costs and Expenses.

BELIN, KUBISTA & RYAN LLP


Kimberly M. Kubista,
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

No. 08-2130-CD

TAMMY L. HESS,
Defendant

AFFIDAVIT OF CONSENT UNDER SECTION 3301(c)

1. A complaint in divorce under Section 3301(c) of the Divorce Code was filed on November 7, 2008.

2. The marriage of Plaintiff and Defendant is irretrievably broken and ninety days have elapsed from the date of the filing of the complaint.

3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

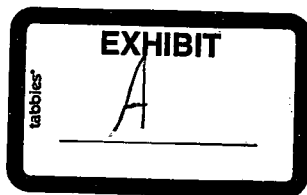
4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date:

12/7/10

Joseph L. Hess
Joseph L. Hess



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

AFFIDAVIT OF CONSENT UNDER SECTION 3301(c)

1. A complaint in divorce under Section 3301(c) of the Divorce Code was filed on November 7, 2008.

2. The marriage of Plaintiff and Defendant is irretrievably broken and ninety days have elapsed from the date of the filing of the complaint.

3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date:

12/7/10

Joseph L. Hess
Joseph L. Hess

EXHIBIT

B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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No. 08-2130-CD

AFFIDAVIT OF CONSENT UNDER SECTION 3301(c)

1. A complaint in divorce under Section 3301(c) of the Divorce Code was filed on November 7, 2008.

2. The marriage of Plaintiff and Defendant is irretrievably broken and ninety days have elapsed from the date of the filing of the complaint.

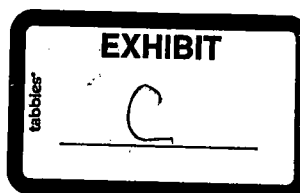
3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date: 12/7/10

Tammy L. Hess
Tammy L. Hess



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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No. 08-2130-CD

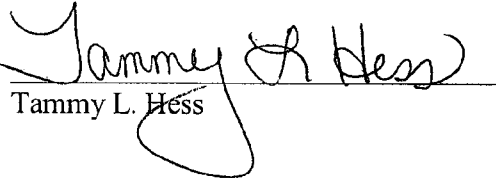
WAIVER OF NOTICE OF INTENTION TO REQUEST
ENTRY OF A DIVORCE DECREE UNDER
SECTION 3301(C) OF THE DIVORCE CODE

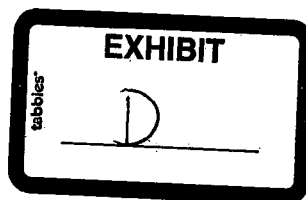
1. I consent to the entry of a final decree of divorce without notice.
2. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.
3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed with the prothonotary.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date:

12/7/10


Tammy L. Hess



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

DIVORCE DECREE

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

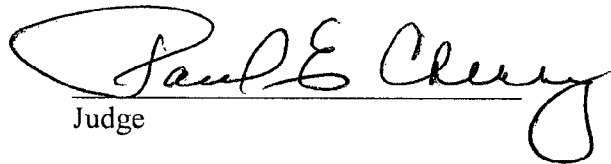
TAMMY L. HESS,
Defendant

No. 08-2130-CD

DIVORCE DECREE

AND NOW, this 9th day of December, 2010, it is ORDERED and
DECREED that JOSEPH L. HESS, Plaintiff and TAMMY L. HESS, Defendant are divorced from
the bonds of matrimony with the Court retaining jurisdiction over the ancillary issues.

BY THE COURT,


Judge

DATE: 12/10

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

4 cc decrees to Atty K. Kubieta

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF HEALTH

VITAL RECORDS

COUNTY

Clearfield

**RECORD OF
DIVORCE OR ANNULMENT**
☒ (CHECK ONE) ☐

STATE FILE NUMBER

STATE FILE DATE

HUSBAND

1. NAME (First) (Middle) (Last) Joseph L. Hess	2. DATE OF BIRTH (Month) (Day) Year 5/27/61
3. RESIDENCE Street or R.D. City, Boro. or Twp. County State 423 West Locust Street Rear, Clearfield, Clearfield Co., PA	4. PLACE OF BIRTH (State or Foreign Country) Pennsylvania
5. NUMBER OF THIS MARRIAGE 1	6. RACE WHITE <input checked="" type="checkbox"/> BLACK <input type="checkbox"/> OTHER (Specify) <input type="checkbox"/>
7. USUAL OCCUPATION Self-employed	

WIFE

8. MAIDEN NAME (First) (Middle) (Last) Bell Tammy L. Hess	9. DATE OF BIRTH (Month) (Day) Year 7/17/68
10. RESIDENCE Street or R.D. City, Boro. or Twp. County State 415 W. Locust St, Apt. 1, Clearfield, Clearfield Co., PA	11. PLACE OF BIRTH (State or Foreign Country) Florida
12. NUMBER OF THIS MARRIAGE 1	13. RACE WHITE <input checked="" type="checkbox"/> BLACK <input type="checkbox"/> OTHER (Specify) <input type="checkbox"/>
14. USUAL OCCUPATION Mental Health Therapist	
15. PLACE OF THIS MARRIAGE (County) (State or Foreign Country) Clearfield County, Pennsylvania	16. DATE OF THIS MARRIAGE (Month) (Day) (year) 7/30/88
17A. NUMBER OF CHILDREN THIS MARRIAGE 2	17B. NUMBER OF DEPENDENT CHILDREN UNDER 18 1
18. PLAINTIFF HUSBAND <input checked="" type="checkbox"/> WIFE <input type="checkbox"/> OTHER (Specify) <input type="checkbox"/>	19. DECREE GRANTED TO HUSBAND <input type="checkbox"/> WIFE <input checked="" type="checkbox"/> OTHER (Specify) <input type="checkbox"/>
20. NUMBER OF CHILDREN TO CUSTODY OF HUSBAND <input type="checkbox"/> WIFE <input checked="" type="checkbox"/> SPLIT CUSTODY <input type="checkbox"/> OTHER (Specify) <input type="checkbox"/>	21. LEGAL GROUNDS FOR DIVORCE OR ANNULMENT 3301(c)
22. DATE OF DECREE (Month) (Day) (Year)	23. DATE REPORT SENT TO VITAL RECORDS (Month) (Day) (Year)
24. SIGNATURE OF TRANSCRIBING CLERK	

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff/Petitioner

v.

TAMMY L. HESS,
Defendant/Respondent

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Docket No. 2008-2130-CD

Type of Pleading:
PETITION FOR MODIFICATION
OF CUSTODY

Filed on behalf of Plaintiff:
JOSEPH L. HESS

Counsel of record for
this party:

THE LAW OFFICES OF KOERBER &
CUMMINGS, LLC

ERIC E. CUMMINGS, ESQUIRE
PA I.D. No. 206194

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 4 CC
013:2281
APR 12 2012
William A. Shaw
Prothonotary/Clerk of Courts
Atty
Cummings
CC

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

JOSEPH L. HESS,
Plaintiff/Petitioner

v.

TAMMY L. HESS,
Defendant/Respondent

Docket No. 2008-2130-CD

PETITION FOR MODIFICATION OF CUSTODY

COMES NOW, Petitioner, Joseph L. Hess, by and through his legal counsel, The Law Offices of Keerber & Cummings, LLC, and sets forth the following Petition for Modification of Custody and in support thereof, shows and avers as follows:

(1) Petitioner, Joseph L. Hess, (hereinafter referred to as "Father"), maintains a physical address of 423 West Locust Street Rear, Clearfield, Pennsylvania, 16830.

(2) Respondent, Tammy L. Hess, (hereinafter referred to as "Mother"), maintains a physical address of 415 West Locust Street, Clearfield, PA 16830.

(3) Father and Mother are the parents of one (1) minor child, namely, Zachary Taylor Hess, (D.O.B. 07/01/2002).

(4) Petitioner respectfully represents that on the 24th day of the February, 2009, the parties entered into a Custody Consent Order. A true and correct copy of said Custody Consent Order is attached hereto as Exhibit "A" with its terms incorporated herein by reference as though set forth in full.

(5) Petitioner believes that it would be in the best interest of said minor child for said Order to be modified and for Father to be granted primary physical custody subject to Mother's periods of partial custody because:

(a) The nature, quality, extent of involvement and duration of said minor child's relationship with Father is more extensive than that of Mother and Father has provided and will continue to provide a living environment conducive to facilitating the same into the future;

(b) The age, developmental stage and needs of said minor child along with said minor child's physical, educational and emotional development have been and would be best addressed more so by Father than by Mother, thereby facilitating the best interest of said minor child;

(c) Father can provide a living environment most consistent with preserving the relationship between said minor child and Mother when considering the logistics and financial circumstances of the parties;

(d) Aside from the new family, new sisters, new lifestyle, Mother has artificially presented to said minor child's being better than what he now has, Father believes that said minor child's preference would be to reside with Father primarily, if said minor child was forced to make such a decision;

(e) Father has and would continue to provide a living environment conducive to facilitating and promoting a strong familial relationship between said minor child and said minor child's sister and both Paternal and Maternal Grandparents, along with Aunts and Uncles;

(f) Father believes that the real-life past facts of said minor child primarily residing with Father and permanently in the future residing with Father would enhance said minor child's quality of life, while ultimately facilitating financial, emotional and educational opportunities;

(g) Father believes that his own quality of life, under his real-life role as primary custodial parent has been and would continue to be enhanced if he were granted primary custody of said minor child;

(h) Father believes that his reasons and motivations for wanting to enhance and promote the best interest of his son through his request for relief are pure and are in the best interest of said minor child;

(i) Father believes that Mother has made arrangements or is planning to make arrangements to permanently move outside of said minor child's school district. Regardless of whether Mother chooses to move or not, Father believes that said minor child's best interest would be served by granting Father primary physical custody;

(j) Father is the only parent who would and who has ever provided a living environment which is conducive to facilitating a strong faith-based background where said minor child can attend Church Services and weekly life group Church gatherings;

(k) Outside of said minor child's schooling, Father has nearly provided all transportation, support, encouragement, equipment and recreational entertainment to said minor child regarding his sports life and his social life;

(l) Father has provided a living environment conducive to facilitating an exceptional Father-son relationship between he and his son founded upon substantial amounts of time spent together;

(m) Though Mother loves her son, Father feels that his son's emotional, educational and religious needs will be overlooked as Mother in the past has focused on her own needs as

the driving force effecting her decision making process; as the best indicator of future action is past practice;

(n) Father believes that it is not in the best interest of said minor child to be forced to spend time with Mother's new still-married fiancé and his family;

(o) Mother has introduced said minor child to other men too soon in the recent past only then to have the relationships deteriorate, leaving the child with questions as to stability;

(p) Said minor child has been assisted at least equally by both Mother and Father in studying and homework preparation which has resulted in said minor child's exceptional scholastic achievements;

(q) Since the entry of the Custody Consent Order dated February 24, 2009, Father has taken said minor child to Church more than Mother has;

(r) Since the entry of the Custody Consent Order dated February 24, 2009, Father has taken said minor child to more extracurricular practices than Mother has;

(s) Since the entry of the Custody Consent Order dated February 24, 2009, Father has taken said minor child to more extracurricular games than Mother has;

(t) Father has taken said minor child to more extended family events since the entry of the Custody Consent Order dated February 24, 2009;

(u) Since Father and Mother's date of marriage, Father has taken said minor child on extended vacations every year of his life;

(v) Since their date of marriage, Mother only went on two (2) vacations with her family;

(w) Mother has an estranged relationship with her own Father which, under her care, negates said minor child from having a relationship with his Paternal Grandparents;

(w) Mother has an estranged relationship with her own Father which, under her care, negates said minor child from having a relationship with his Paternal Grandparents;

(x) Mother is planning on marrying and moving outside of said minor child's school district whether or not she maintains primary physical custody;

(y) Mother maintains compulsive disorders which hinder her ability to function properly and hinders the social well-being of the child;

(6) The best interest of said minor child would be served if Your Honorable Court would grant Father primary physical custody of said minor child subject to Mother's periods of partial custody, with the parties sharing legal custody.

WHEREFORE, Your Petitioner respectfully requests Your Honorable Court grant him primary physical custody and shared legal custody of said minor child while granting Respondent periods of partial custody.

Respectfully submitted,

THE LAW OFFICES OF KOERBER &
CUMMINGS, LLC

By: 

Eric E. Cummings, Esquire

Attorney for Plaintiff/Petitioner: Joseph L. Hess

EXHIBIT A

Attached hereto as Exhibit A is a true and correct copy of the Custody Consent Order dated February 24, 2009.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

CONSENT ORDER

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN, KUBISTA & RYAN LLP
15 N. Front Street
Clearfield, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

No. 08-2130-CD

TAMMY L. HESS,
Defendant

CONSENT ORDER

NOW THIS 24th day of February, 2009, upon agreement of the parties, it is hereby ORDERED and DECREED as follows:

1. Tammy L. Hess, hereinafter "Mother" and Joseph L. Hess, hereinafter "Father" are the parents of one (1) minor child; namely, Zachary Taylor Hess, d.o.b. 7/1/02.

2. Mother shall have primary physical custody while Mother and Father shall share legal custody of the child. In regard to the parties having joint legal custody of the child, the Court follows the definitions provided by Pa.R.C.P. 1915.1(b) which states that "legal custody means the legal right to make major decisions affecting the best interest of the minor child, including but not limited to, medical, religious and educational decisions" and wherein each parent shall have equal access to any and all medical, dental, school and legal records. Medical and dental providers – as well as school administrations – shall accept this Order as authorization to release documentation to each parent. In addition, it is understood by both parents, that they shall communicate fully with the other in an effort to assure that all directives pertaining to the minor child from physicians, dentists and teachers are followed absolutely and all information pertaining to any prescriptions the child is on is exchanged between the parties.

3. ~~AN~~ Father shall have partial custody of the child two (2) overnights each week with said overnights to be agreed upon by the parties from 5:00 p.m. until the following morning when Father will take the child to school.

4. Father shall have partial custody of the child each Saturday from 2:00 p.m. until Sunday at 5:00 p.m.

5. Both parties shall assure that the child gets to all extra-curricular activities during their periods of custody.

6. The parties shall share the holidays as follows unless otherwise agreed to between the parties:

i. Easter – In even numbered years, Mother shall have partial custody from the Friday before Easter at 4:00 p.m. until 2:00 p.m. on Easter Sunday. Father shall have custody from 2:00 p.m. until 8:00 p.m. on Easter Sunday. In odd numbered years, Father shall have the custody from the Friday before Easter at 4:00 p.m. until 2:00 p.m. on Easter Sunday. Mother shall have partial custody from 2:00 p.m. until 8:00 p.m. on Easter Sunday.

ii. Thanksgiving – In even numbered years, Father shall have custody from 4:00 p.m. the day before Thanksgiving until 2:00 p.m. on Thanksgiving Day. Mother shall have partial custody from 2:00 p.m. on Thanksgiving Day until 8:00 p.m. the Sunday following Thanksgiving. In odd numbered years, Mother shall have partial custody from 4:00 p.m. the day before Thanksgiving Day until 2:00 p.m. on Thanksgiving Day. Father shall have custody from 2:00 p.m. on Thanksgiving Day until 8:00 p.m. the Sunday following Thanksgiving.

iii. Christmas – In even numbered years, Mother shall have custody from 4:00 p.m. the day before Christmas until 2:00 p.m. on Christmas Day. Father shall have custody from 2:00 p.m. on Christmas Day until 6:00 p.m. on December 28th. Mother shall

then have custody from 6:00 p.m. on December 28th until 4:00 p.m. on December 31st. In odd numbered years, Father shall have custody from 4:00 p.m. the day before Christmas until 2:00 p.m. on Christmas Day. Mother shall have custody from 2:00 p.m. on Christmas Day until 6:00 p.m. on December 28th. Father shall then have custody from 6:00 p.m. on December 28th until 4:00 p.m. on December 31st.

iv. The parties shall alternate the minor holidays of New Years Day, Memorial Day, Independence Day (Fourth of July) and Labor Day. In odd numbered years, Mother shall have custody on New Year's Day and the Fourth of July and Father shall have custody on Memorial Day and Labor Day. In even numbered years, Father shall have custody on New Year's Day and the Fourth of July and Mother shall have custody on Memorial Day and Labor Day. The party entitled to possession shall have the child from 9:00 a.m. until 8:00 p.m. In the event that a parent is entitled to possession of the child on a holiday which falls on a Monday and that parent is also entitled to the immediately preceding weekend, that parent shall then be able to maintain the child over Sunday evening.

v. Mother shall always have custody of the child for the weekend of Mother's Day and Father shall always have custody of the child for the weekend that includes Father's Day.

7. Holiday periods of custody shall take precedence over the regularly scheduled periods of custody.

8. Father shall have such other periods of custody as the parties can agree.

BY THE COURT

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

/s/ Paul E. Cherry

Judge


FEB 24 2009

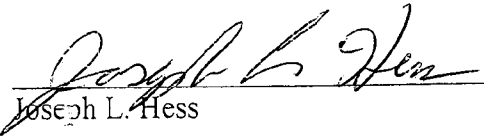
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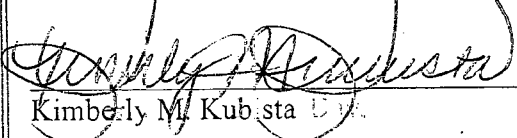
William L. Brown
Notary Public/
Clerk of Courts

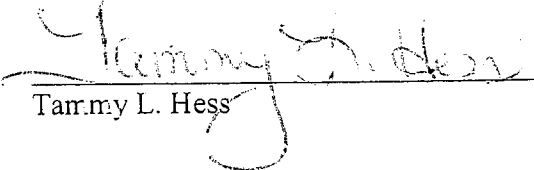
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We hereby stipulate to the above set forth Consent Order.


Eric Cummings


Joseph L. Hess


Kimberly M. Kubista


Tammy L. Hess

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff/Petitioner

v.

TAMMY L. HESS,
Defendant/Respondent

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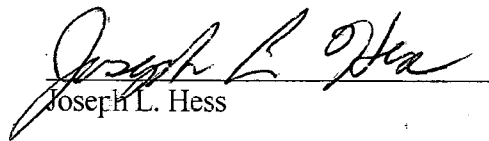
Docket No. 2008-2130-CD

VERIFICATION

I, Joseph L. Hess verify that the statements made in this Petition for Modification of Custody are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.

Date

4/11/12


Joseph L. Hess

FILED

APR 12 2012

**William A. Shaw
Prothonotary/Clerk of Courts**

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff/Petitioner

v.

TAMMY L. HESS,
Defendant/Respondent

Docket No. 2008-2130-CD

FILED

APR 17 2012

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William A. Shaw
Prothonotary/Clerk of Courts

RULE

AND NOW, this 16th day of April, 2012, upon consideration of

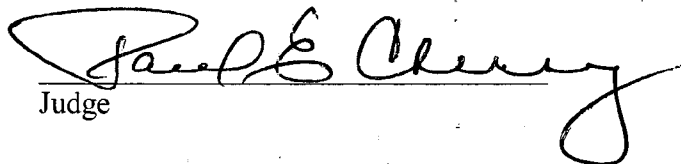
Petitioner's Petition for Modification of Custody, a **RULE** is hereby issued upon Respondent,

Tammy L. Hess, to Answer and show cause why the relief requested should not be granted. **RULE**

RETURNABLE and Answer by Respondent and Custody Conference on said Petition for

Modification of Custody to be held on the 15th day of May, 2012, at
1:30 P.M. in Hearing Room 3 at the Clearfield County Courthouse.

BY THE COURT:


Judge

FILED

APR 17 2012

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 2008-2130-CD

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on behalf of Plaintiff:
JOSEPH L. HESS

Counsel of record for
this party:

THE LAW OFFICES OF KOERBER
& CUMMINGS, LLC

ERIC E. CUMMINGS, ESQUIRE
PA I.D. No. 206194

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

5
FILED
APR 19 2018
William A. Shaw
Prothonotary/Clerk of Courts
Ice
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Joseph L. Hess,
Plaintiff

v.

Tammy L. Hess,
Defendant

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Docket No. 2008-2130-CD

CERTIFICATE OF SERVICE

I certify that on the 18th day of April, 2012, the undersigned served a certified copy of the Petition for Modification of Custody and a certified copy of the Rule Returnable in the above-captioned matter. Such documents were served via United States First Class Mail upon counsel for Defendant:

Kimberly M. Kubista, Esquire
KUBISTA & RYAN, LLP
202 South Front Street
P. O. Box 1
Clearfield, PA 16830



Eric E. Cummings, Esquire
Attorney for Plaintiff: Joseph L Hess

FILED

APR 19 2012

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS

V.

TAMMY L. HESS

NO. 08-2130-CD

FILED

MAY 17 2012

William A. Shaw
Prothonotary/Clerk of Courts

2000
Questionnaire
to Atty's:
Cummings
K. Kubista
OK

ORDER FOR MEDIATION CONFERENCE and PAYMENT OF COSTS

NOW, this 15th day of May, 2012, it is ORDERED that a Custody Mediation Conference be held before Allen H. Ryen, Ph.D., Licensed Child Psychologist.

It is further ORDERED that **EACH PARTY** to this action shall forthwith complete a Child Custody Mediation Questionnaire and forward the same to Dr. Ryen (416 Knarr Street, DuBois, Pennsylvania 15801) within Ten (10) days of receipt of this ORDER.

It is also ORDERED that the cost of said Mediation Conference shall be borne equally by the Plaintiff(s) and Defendant(s) named in this action.

Each party named in this action (or counsel for the parties) shall deposit Two Hundred Fifty (\$250.00) Dollars (**money orders only**) made payable to the Clearfield County Treasurer and mailed to J. Shirey, Judge's Chambers, 230 East Market Street, Clearfield, Pennsylvania 16830 within Twenty-Five (25) days of the date of this Order, to proceed with the Mediation Conference "OR" submit a Custody Consent Order to the Court within Twenty-Five (25) days of the date of this Order foregoing the Mediation Conference.

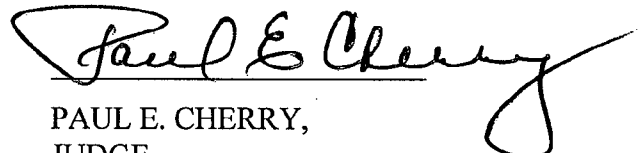
This Court shall issue a further ORDER scheduling the Mediation Conference when the required deposit has been received from all parties participating in this action.

If a Custody Consent Order is received by the Court after the Twenty-Fifth

day following this Order and no later than ***SEVEN (7)*** days before scheduled Mediation Conference, then each party or counsel for the parties shall include Twenty (\$20.00) Dollars (money order only) in order to defray administrative/processing expense. In this event the amount of Two Hundred Fifty (\$250.00) Dollars previously deposited by each party shall be returned.

FAILURE OF A PARTY TO DEPOSIT THE REQUIRED FEE OF 'TWO HUNDRED FIFTY (\$250.00) DOLLARS' SHALL RESULT IN THE OFFENDING PARTY BEING SUBJECT TO CONTEMPT PROCEEDINGS BEFORE THE COURT.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

Attorney for Plaintiff: Eric E. Cummings, Esq.
Attorney for Defendant: Kimberly Kubista, Esq.

FILED

MAY 17 2012

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/17/12

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)

 X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS

V.

TAMMY L. HESS

NO. 08-2130-CD

O R D E R

NOW, this 11th day of June, 2012, it is the ORDER of this Court that **Custody Mediation Conference** be held before Allen H. Ryen, Ph. D., Licensed Child Psychologist, on **August 15, 2012** at 9:00 o'clock a.m. at the Clearfield County Courthouse.

Please report to the central lobby area on the second floor of the Courthouse. You will be instructed as to the location of the Custody Mediation Conference at that time. Both parents, their respective counsel and the child(ren) shall attend said conference. The present custodial parent shall provide someone to attend to the child(ren) while the parent is in private conference.

FAILURE OF A PARTY TO APPEAR FOR THE MEDIATION CONFERENCE WILL RESULT IN ASSESSMENT ON THAT OFFENDING PARTY OF ALL COSTS, UNLESS SAID PARTY HAS NOTIFIED THE CLEARFIELD COUNTY COURT ADMINISTRATOR (814) 765-2641, extension 5982 AT LEAST *** SEVEN (7) *** FULL BUSINESS DAYS IN ADVANCE OF THE SCHEDULED MEDIATION CONFERENCE AND THE COURT ADMINISTRATOR HAS AGREED TO A CONTINUANCE/RESCHEDULING.

BY THE COURT,



PAUL E. CHERRY,
JUDGE

Attorney for Plaintiff: Eric Cummings, Esq.
Attorney for Defendant: Kimberly Kubista, Esq.


FILED

5 JUN 13 2012
6/8/12
William A. Stone
Prothonotary/Clerk of Courts

Clerk TO

Cummings &
Kubista

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

STIPULATION AND ORDER

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

KUBISTA & RYAN LLP
202 South Front Street
Clearfield, PA 16830
(814) 765-8972

FILED

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AUG 06 2012 Atty K. Kubista
S William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

STIPULATION AND ORDER

NOW THIS 3rd day of August, 2012, upon agreement of the parties, it is hereby ORDERED and DECREED as follows:

1. Tammy L. Hess, hereinafter "Mother" and Joseph L. Hess, hereinafter "Father" are the parents of one child: Zachary Taylor Hess, d.o.b. 7/1/02.
2. The parties agree that their minor child, Zachary Taylor Hess, d.o.b. 7/1/02, shall continue to attend school in the Clearfield Area School District until the child reaches the age of fourteen (14).
3. It is agreed that the child will continue to participate in all athletics based out of the Clearfield area until the child reaches the age of fourteen (14). Mother and Father shall discuss as to what activities and athletics the child participates in the Clearfield area before the child is enrolled.
4. Father agrees to Mother relocating with the child to Jefferson County and Mother agrees to pay tuition and transportation costs associated with the child continuing to attend the Clearfield Area School District until the child reaches the age of fourteen (14). Should the child determine that he wishes to continue to attend the Clearfield Area School

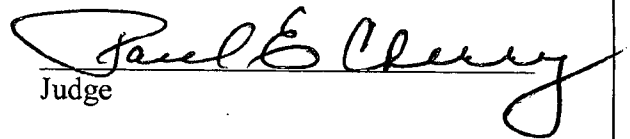
District after the age of fourteen (14), the parties shall then share all tuition costs associated with his continued attendance.

5. The parties agree that this Stipulation will remain in full force and effect until the child reaches fourteen (14) years of age and cannot be modified unless of an emergency or upon consent by both parents.

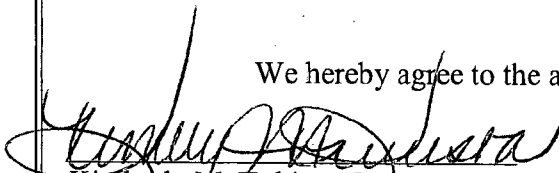
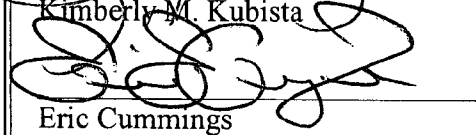
6. Father shall pay to Mother the sum of \$500.00 per month for child support of the minor child.

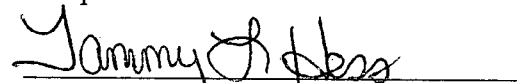
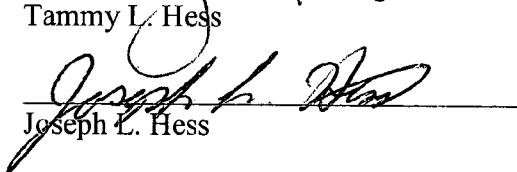
7. All other provisions contained in prior Custody Order dated February 24, 2009 shall remain in full force and effect.

BY THE COURT


Judge

We hereby agree to the above set forth Stipulation.


Kimberly M. Kubista

Eric Cummings


Tammy L. Hess

Joseph L. Hess

FILED

AUG 06 2012

**William A. Shaw
Prothonotary/Clerk of Courts**

DATE: 8/16/12

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS

V.

TAMMY L. HESS

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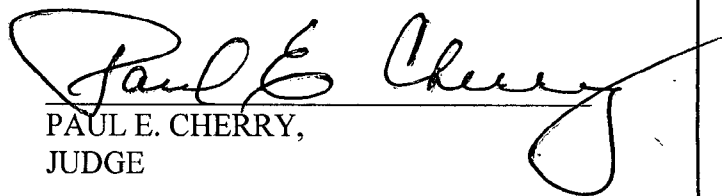
NO. 08-2130-CD

ORDER

NOW, this 3rd day of August, 2012, pursuant to the parties having filed a Consent Agreement, it is the ORDER of this Court that the Mediation Conference scheduled for August 15, 2012 shall be and is hereby CANCELLED.

Furthermore, the Clearfield County Controller will be directed to return to Plaintiff, Joseph L. Hess, and Defendant, Tammy L. Hess, money previously deposited for the Mediation Conference, with the exception of the Twenty (\$20.00) Dollar administrative fee.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

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AUG 07 2012

William A. Shaw
Prothonotary/Clerk of Courts

Attys: Cummings
K. Kubista

OK

FILED

AUG 07 2012

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/7/12

____ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ☒ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ☒ Defendant(s) Attorney

____ Special Instructions:

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FILED
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AUG 09 2019

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

4cc Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,

Plaintiff,

v.

TAMMY L. HESS,

Defendant.

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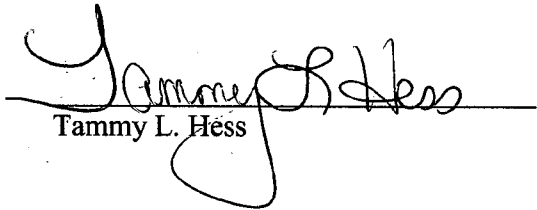
Docket No. 2008-2130-CD

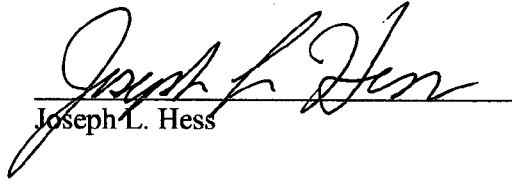
AMENDED CUSTODY ORDER

AND NOW, this 7 day of August, 2019, upon agreement of the parties that the Custody Consent Order dated June 14, 2019 be amended, the parties agree as follows:

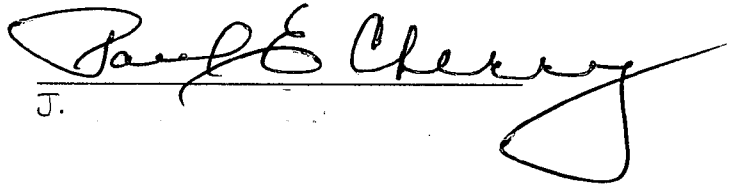
1. The purpose of the Custody Consent Order, dated June 14, 2019, was to allow the minor child, Z.T.H. (D.O.B. 07/01/02) to relocate to Florida with Mother.
2. Mother and Father agree that the child, Z.T.H., will move back to Clearfield County in order to complete his senior year of high school at Clearfield Area High School.
3. The child will reside with Father for the 2019-2020 school year. Father shall be responsible for all parental responsibilities while the child is in Father's care, including but not limited to, shelter, food, amenities, and expenses. Father shall ensure that the child's educational and medical needs are maintained. Further, Father shall ensure that any preparation required for the child to attend college is appropriately completed, including any college applications, tours, and taking the SAT examination.
4. The child shall be permitted to travel to Florida for vacation periods, school breaks, holidays, and/or any other times as the parties mutually agree.

5. Paragraphs 5 through 9 of the June 14, 2019 Custody Consent Order shall remain in full force and effect.


Tammy L. Hess


Joseph L. Hess

BY THE COURT:


J.

**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

*Public Access Policy of the Unified Judicial System of Pennsylvania:
Case Records of the Appellate and Trial Courts
204 Pa. Code § 213.81
www.pacourts.us/public-records*

Joseph L. Hess
(Party name as displayed in case caption)

08-2130-CD
Docket/Case No.

Vs.

Tammy L. Hess
(Party name as displayed in case caption)

Court of Common Pleas of Clearfield Co.
Court

This form is associated with the pleading titled Counter-Affidavit, dated _____,
Regarding Relocation

Pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, the Confidential Information Form shall accompany a filing where confidential information is **required by law, ordered by the court, or otherwise necessary to effect the disposition of a matter**. This form, and any additional pages, shall remain confidential, except that it shall be available to the parties, counsel of record, the court, and the custodian. This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

This Information Pertains to:	Confidential Information:	References in Filing:
<div>(full name of adult)</div> <div>OR</div> <div>This information pertains to a minor with the initials of <u>ZTH</u> and the full name of <u>Zachary Taylor Hess</u> (full name of minor)</div> <div>and date of birth: <u>7/1/02</u></div>	<div>Social Security Number (SSN):</div> <div>Financial Account Number (FAN):</div> <div>Driver's License Number (DLN):</div> <div>State of Issuance:</div> <div>State Identification Number (SID):</div>	<div>Alternative Reference: SSN 1</div> <div>Alternative Reference: FAN 1</div> <div>Alternative Reference: DLN 1</div> <div>Alternative Reference: SID 1</div>
<div>(full name of adult)</div> <div>OR</div> <div>This information pertains to a minor with the initials of _____ and the full name of _____ (full name of minor)</div> <div>and date of birth: _____</div>	<div>Social Security Number (SSN):</div> <div>Financial Account Number (FAN):</div> <div>Driver's License Number (DLN):</div> <div>State of Issuance:</div> <div>State Identification Number (SID):</div>	<div>Alternative Reference: SSN 2</div> <div>Alternative Reference: FAN 2</div> <div>Alternative Reference: DLN 2</div> <div>Alternative Reference: SID 2</div>

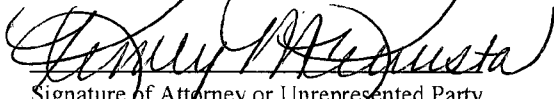
**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Additional page(s) attached. _____ total pages are attached to this filing.

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.


Signature of Attorney or Unrepresented Party

6/7/19
Date

Name: Kimberly M. Kubista

Attorney Number: (if applicable) 52782

Address: 202 S. Front St., P.O. Box 1

Telephone: 814-765-8972

Clearfield, PA 16830

Email: jill.krlaw@verizon.net

NOTE: Parties and attorney of record in a case will have access to this Confidential Information Form. Confidentiality of this information must be maintained.

9

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

CUSTODY CONSENT ORDER

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

KUBISTA & RYAN LLP
202 S. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED
0111am/AL
JUN 17 2019
SCC atty Kubista
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

No. 08-2130-CD

TAMMY L. HESS,
Defendant

CUSTODY CONSENT ORDER

NOW THIS 14th day of June, 2019, upon agreement of the parties, it is hereby ORDERED and DECREED as follows:

1. Joseph L. Hess, hereinafter "Father" and Tammy L. Hess, hereinafter "Mother" are the parents of one minor child; namely, Z.T.H.

2. That Father and Mother shall share legal custody of the child.

In regard to the parties having joint legal custody of the child, the Court follows the definitions provided by Pa.R.C.P. 1915.1(b) which states that "legal custody means the legal right to make major decisions affecting the best interest of the minor child, including but not limited to, medical, religious and educational decisions" and wherein each parent shall have equal access to any and all medical, dental, school and legal records. Medical and dental providers – as well as school administrations – shall accept this Order as authorization to release documentation to each parent. In addition, it is understood by both parents, that they shall

communicate fully with the other in an effort to assure that all directives pertaining to the minor child from physicians, dentists and teachers are followed absolutely and all information pertaining to any prescriptions the child is on is exchanged between the parties.

3. Mother shall have primary physical custody of the child subject to Father's periods of partial custody of the child as the parties can agree but no less than four (4) weeks each year or, in the event Father moves to Florida, a total of eighty (80) days each year. Specific days and times to be agreed upon by the parties.

4. The parties shall share the holidays as they can agree.

5. Neither party shall malign or speak in a derogatory fashion about the other parent in the presence of the child, nor shall they permit anyone else to do so. Each parent shall exercise his/her best efforts to promote a healthy relationship between the child and the other parent and the other parent's family.

The parents are directed to conduct themselves in a reasonable and appropriate manner at all times during their interactions with each other and their family members concerning custody of the child and issues relating to the child's care and nurturance, including the duty to immediately contact the other parent should the minor child have a serious injury or illness which requires medical attention. In addition, both Mother and Father shall communicate with each other

with regard to the well-being and best interest of their child and shall not communicate through the child.

In addition, each parent shall keep the other informed of the progress of the child's education and social activities, as well as keeping the other informed of any medical-related appointments for the child in order that the other parent be available to attend said appointments.

6. Both parents shall keep in mind the schedules of the minor child pertaining to his school and extracurricular activities in which he may be involved during the times that the child is in their custody and shall assure that the child attends all activities during their periods of custody. Furthermore, neither party shall discourage the minor child from participating in his activities nor will they permit any third parties to discourage the child from participating in activities.

7. Neither party shall restrict telephone contact between the child and the parent not in custody of the child. The parent who is not then exercising custody of the child may have reasonable telephone contact with the child, which means up to three (3) telephone calls per week providing the same is done by and no later than 8:00 p.m.

8. Neither party shall consume alcoholic beverages to excess during those periods when they have custody of the child, nor shall they operate

any vehicle to pick up, return or generally transport the child after having consumed any alcoholic beverages.

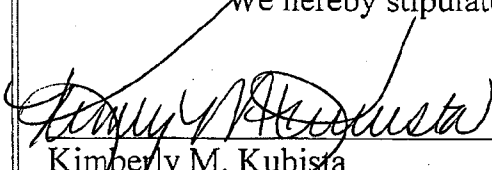
Neither parent will use any non-prescription or illegal drugs nor permit anyone to do so in the presence of the minor child or while the child is in that parent's custody.

9. Neither party shall smoke any tobacco products in the presence of the child, nor shall they permit any third party to smoke in the presence of the child. In the presence of the child is defined as anywhere within any home, residence or apartment where the child resides, are located or in any automobile of any type in which the child is located or being transported.

BY THE COURT


Judge

We hereby stipulate to the above set forth Consent Order.


Kimberly M. Kubista


Tammy L. Hess


Eric Cummings


Joseph L. Hess

**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

*Public Access Policy of the Unified Judicial System of Pennsylvania:
Case Records of the Appellate and Trial Courts
204 Pa. Code § 213.81
www.pscourts.us/public-records*

Joseph L. Hess
(Party name as displayed in case caption)

08-2130-CD
Docket Case No.

Vs.

Tammy L. Hess
(Party name as displayed in case caption)

Court of Common Pleas of Clearfield Co.
Court

This form is associated with the pleading titled Custody Consent Order, dated _____.

Pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania. Case Records of the Appellate and Trial Courts*, the Confidential Information Form shall accompany a filing where confidential information is **required by law, ordered by the court, or otherwise necessary to effect the disposition of a matter**. This form, and any additional pages, shall remain confidential, except that it shall be available to the parties, counsel of record, the court, and the custodian. This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

This Information Pertains to:	Confidential Information:	References in Filing:
<div>(full name of adult)</div> <div>OR</div> <div>This information pertains to a minor with the initials of <u>ZTH</u> and the full name of <u>Zachary Taylor Hess</u> (full name of minor)</div> <div>and date of birth: <u>7/1/02</u></div>	<div>Social Security Number (SSN):</div> <div>Financial Account Number (FAN):</div> <div>Driver's License Number (DLN):</div> <div>State of Issuance:</div> <div>State Identification Number (SID):</div>	<div>Alternative Reference: SSN 1</div> <div>Alternative Reference: FAN 1</div> <div>Alternative Reference: DLN 1</div> <div>Alternative Reference: SID 1</div>
<div>(full name of adult)</div> <div>OR</div> <div>This information pertains to a minor with the initials of _____ and the full name of _____ (full name of minor)</div> <div>and date of birth: _____</div>	<div>Social Security Number (SSN):</div> <div>Financial Account Number (FAN):</div> <div>Driver's License Number (DLN):</div> <div>State of Issuance:</div> <div>State Identification Number (SID):</div>	<div>Alternative Reference: SSN 2</div> <div>Alternative Reference: FAN 2</div> <div>Alternative Reference: DLN 2</div> <div>Alternative Reference: SID 2</div>

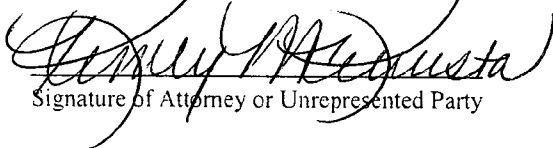
**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Additional page(s) attached. _____ total pages are attached to this filing.

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.


Signature of Attorney or Unrepresented Party

6/7/19
Date

Name: Kimberly M. Kubista

Attorney Number: (if applicable) 52782

Address: 202 S. Front St., P.O. Box 1

Telephone: 814-765-8972

Clearfield, PA 16830

Email: jill.krlaw@verizon.net

NOTE: Parties and attorney of record in a case will have access to this Confidential Information Form. Confidentiality of this information must be maintained.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

CERTIFICATE OF SERVICE

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

KUBISTA & RYAN LLP
202 S. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

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loc Amy Kubista
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

CERTIFICATE OF SERVICE


This is to certify that I have served a certified copy of Notice of Relocation, Counter-Affidavit and Proposed Custody Consent Order by certified-mail, restricted delivery on the 16th day of May, 2019 to the following:

Eric Cummings, Esquire
110 North Second Street
Clearfield, PA 16830

And on the 18th day of May, 2019 to the following:

Joseph L. Hess
423 West Locust Street
Clearfield, PA 16830

KUBISTA & RYAN LLP


Kimberly M. Kubista
Attorney for Defendant

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Eric Cummings, Esquire
110 North Second Street
Clearfield, PA 16830



9590 9402 4600 8278 8376 87

2. Article Number (Transfer from service label)

7015 3430 0000 5293 0705

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

☐ Agent

☒ Addressee

B. Received by (Printed Name)

Eric Cummings

C. Date of Delivery

5/10/19

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail®

☒ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☒ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Joseph L. Hess
423 West Locust Street
Clearfield, PA 16830



9590 9402 4600 8278 8376 18

2. Article Number (Transfer from service label)

7015 3430 0000 5293 1184

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

☐ Agent

☒ Addressee

B. Received by (Printed Name)

Joseph Hess

C. Date of Delivery

5-18-19

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail®

☒ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☒ Return Receipt for Merchandise

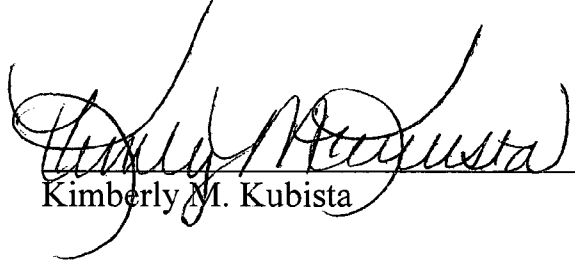
☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

I certify that this filing complies with the provision of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: 5/23/19



Kimberly M. Kubista

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD S

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MAY 14 2019

LCC AMY KUBISTA

BRIAN K. SPENCER

PROTHONOTARY & CLERK OF COURTS

RELOCATION NOTICE

Filed on behalf of:

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

KUBISTA & RYAN LLP
202 South Front Street
Clearfield, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

RELOCATION NOTICE

TO: Joseph L. Hess
c/o Eric Cummings, Esquire
P.O. Box 1320
Clearfield, PA 16830

This is notice of my intention to relocate with my child: Z.T.H., is given pursuant to 23 Pa.C.S. Section 5337 by certified-mail, restricted delivery.

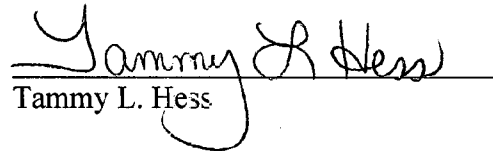
1. The address of the child's new residence will be 6419 55th Square, Vero Beach, Florida 32967.
2. The child's new mailing address is 6419 55th Square, Vero Beach, Florida 32967.
3. The following person(s) will reside with the child at the new residence: Mother, the child's Grandparents and Uncle.
4. The phone number of the new residence is (814) 577-9206.
5. The child's new school will be: Vero Beach High School.
6. The date of the proposed relocation is immediate.

7. The reasons for relocation are: Child wishes to attend college in Florida and Florida offers a tuition break for individuals who have resided in Florida in excess of one (1) year.

8. I propose the attached custody schedule upon relocation.

9. Other appropriate information: Not applicable.

10. **Enclosed is a counter-affidavit which you may use to object to the relocation and the modification of the custody order. If you intend to object to relocation, you must complete and file the counter-affidavit with the court within 30 days after receipt of this Notice. If you fail to file your objection within 30 days of receipt of this notice, you will be precluded from objecting to the relocation.**


Tammy L. Hess

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

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:
:

No. 08-2130-CD

CUSTODY CONSENT ORDER

NOW THIS ____ day of _____, 2019, upon agreement of the parties, it is hereby ORDERED and DECREED as follows:

1. Joseph L. Hess, hereinafter "Father" and Tammy L. Hess, hereinafter "Mother" are the parents of one minor child; namely, Z.T.H.

2. That Father and Mother shall share legal custody of the child.

In regard to the parties having joint legal custody of the child, the Court follows the definitions provided by Pa.R.C.P. 1915.1(b) which states that "legal custody means the legal right to make major decisions affecting the best interest of the minor child, including but not limited to, medical, religious and educational decisions" and wherein each parent shall have equal access to any and all medical, dental, school and legal records. Medical and dental providers – as well as school administrations – shall accept this Order as authorization to release documentation to each parent. In addition, it is understood by both parents, that they shall

communicate fully with the other in an effort to assure that all directives pertaining to the minor child from physicians, dentists and teachers are followed absolutely and all information pertaining to any prescriptions the child is on is exchanged between the parties.

3. Mother shall have primary physical custody of the child subject to Father's periods of partial custody of the child as the parties can agree but no less than four (4) weeks each year or, in the event Father moves to Florida, a total of eighty (80) days each year. Specific days and times to be agreed upon by the parties.

4. The parties shall share the holidays as they can agree.

5. Neither party shall malign or speak in a derogatory fashion about the other parent in the presence of the child, nor shall they permit anyone else to do so. Each parent shall exercise his/her best efforts to promote a healthy relationship between the child and the other parent and the other parent's family.

The parents are directed to conduct themselves in a reasonable and appropriate manner at all times during their interactions with each other and their family members concerning custody of the child and issues relating to the child's care and nurturance, including the duty to immediately contact the other parent should the minor child have a serious injury or illness which requires medical attention. In addition, both Mother and Father shall communicate with each other

with regard to the well-being and best interest of their child and shall not communicate through the child.

In addition, each parent shall keep the other informed of the progress of the child's education and social activities, as well as keeping the other informed of any medical-related appointments for the child in order that the other parent be available to attend said appointments.

6. Both parents shall keep in mind the schedules of the minor child pertaining to his school and extracurricular activities in which he may be involved during the times that the child is in their custody and shall assure that the child attends all activities during their periods of custody. Furthermore, neither party shall discourage the minor child from participating in his activities nor will they permit any third parties to discourage the child from participating in activities.

7. Neither party shall restrict telephone contact between the child and the parent not in custody of the child. The parent who is not then exercising custody of the child may have reasonable telephone contact with the child, which means up to three (3) telephone calls per week providing the same is done by and no later than 8:00 p.m.

8. Neither party shall consume alcoholic beverages to excess during those periods when they have custody of the child, nor shall they operate

any vehicle to pick up, return or generally transport the child after having consumed any alcoholic beverages.

Neither parent will use any non-prescription or illegal drugs nor permit anyone to do so in the presence of the minor child or while the child is in that parent's custody.

9. Neither party shall smoke any tobacco products in the presence of the child, nor shall they permit any third party to smoke in the presence of the child. In the presence of the child is defined as anywhere within any home, residence or apartment where the child resides, are located or in any automobile of any type in which the child is located or being transported.

BY THE COURT

Judge

We hereby stipulate to the above set forth Consent Order.

Kimberly M. Kubista

Tammy L. Hess

Eric Cummings

Joseph L. Hess

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

:
:
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:
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:
:

No. 08-2130-CD

COUNTER-AFFIDAVIT REGARDING RELOCATION

This proposal of relocation involves the following child: Z.T.H.

I have received a notice of proposed relocation and

☐ 1. I do not object to the relocation and I do not object to the modification of the custody order consistent with the proposal for revised custody schedule as attached to the notice.

☐ 2. I do not object to the relocation, but I do object to modification of the custody order, and I request that a hearing be scheduled

☐ A. Prior to allowing Z.T.H. to relocate; or

☐ B. After the child relocates.

☐ 3. I do object to the relocation and I do object to the modification of the custody order, and I further request that a hearing be held on both matters prior to the relocation taking place.

I understand that in addition to checking (2) or (3) above, I must also file this notice with the Court in writing and serve it on the other party by certified mail, return receipt requested. If I fail to do so within 30 days of my receipt of the proposed relocation notice, I shall be foreclosed from objecting to the relocation.

I verify that the statements made in this counter-affidavit are true and correct . I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Date: _____

Joseph L. Hess

cd

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

TAMMY L. HESS,
Defendant

No. 08-2130-CD

COUNTER-AFFIDAVIT
REGARDING RELOCATION

Filed on behalf of

Defendant

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

KUBISTA & RYAN LLP
202 S. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

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BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. HESS,
Plaintiff

vs.

No. 08-2130-CD

TAMMY L. HESS,
Defendant

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Date:

6/4/19



Joseph L. Hess