

STATE OF INDIANA )  
 )  
COUNTY OF ELKHART )

IN THE ELKHART SUPERIOR COURT 6

CASE NO: \_\_\_\_\_

IN RE THE ANNULMENT OF:

\_\_\_\_\_  
Name of Filing Spouse

Select One:  Husband  Wife

And

\_\_\_\_\_  
Name of Responding Spouse

Select One:  Husband  Wife

**DECREE OF ANNULMENT OF MARRIAGE WITH CHILDREN**

The Court having reviewed the Verified Petition for Annulment of Marriage and having held a final hearing in this matter, now finds the following:

1. Parties were married on \_\_\_\_\_ in a ceremony preformed in \_\_\_\_\_.
2.  **Filing Spouse**  **Responding Spouse** has been a continuous resident of Elkhart County for the last three (3) months and the State of Indiana for the last six (6) months immediately preceding the filing of this Petition.
3. \_\_\_\_\_  is /  is not pregnant.
4. \_\_\_\_\_  is /  is not a member of the military.
5. \_\_\_\_\_  is /  is not a member of the military.
6. There are \_\_\_\_\_ unemancipated children of the marriage, namely:

| Name | Age | DOB |
|------|-----|-----|
|      |     |     |
|      |     |     |
|      |     |     |

And \_\_\_\_\_ is adjudicated the Father of said children.

## Name Restoration

7.  Neither party requests a name change.

-OR-

\_\_\_\_\_ would like the following former name restored and is not a lifetime sex or violent offender or has complied with I.C. 31-15-2-19; and shall hereinafter be known as:

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\_\_\_\_\_ would like the following former name restored and is not a lifetime sex or violent offender or has complied with I.C. 31-15-2-19; and shall hereinafter be known as:

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## Children

The court shall determine custody and enter a custody order in accordance with the best interests of the child(ren). In determining the best interests of the child(ren), there is no presumption favoring either parent. The court shall consider all relevant factors, including the following:

- I. The age and sex of the child(ren).
- II. The wishes of the child's parent or parents.
- III. The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
- IV. The interaction and interrelationship of the child with the child's parent or parents; the child's sibling; and any other person who may significantly affect the child's best interests.
- V. The child's adjustment to the child's home; school; and community.
- VI. The mental and physical health of all individuals involved.
- VII. Evidence of a pattern of domestic or family violence by either parent
- VIII. Evidence that the child has been cared for by a de facto custodian (*not a parent*), and if the evidence is sufficient, the Court shall consider the factors described in section 8.5(b) of this chapter.

## Legal Custody – Legal Custody is not where the child(ren) live, but which parent(s) make major life decisions for the child(ren)

8. It is in the best interest of the minor child(ren) that:
- The parents shall share joint legal custody of the children. Both parents are equally responsible for decision-making for their children. They must communicate and cooperate to make decisions regarding major life decisions such as education, religion, and health care.

-OR-

- \_\_\_\_\_ shall have sole legal custody of the children. The legal custodian shall discuss decisions with the other parent, when possible, but shall solely make all decisions regarding the children's education, religion, and health care.

## The parent(s) with legal custody shall make other major life decisions for the child(ren), such as the ones described below. This is not an exhaustive list of major life decisions.

- i. Driving: Before a child may obtain a driver's license, use a car, purchase a vehicle, or use other vehicles such as motorcycles or all-terrain vehicles.
- ii. Firearms: Before a child may use a firearm, engage in hunting, or target practice.
- iii. Legal Actions: Before either parent may be the representative of the child for purposes of legal action.
- iv. Military Service: Before a child enlists in the military.
- v. Marriage: Before a parent consents to the marriage of a child who under state law is required to obtain parental consent.
- vi. Cosmetic Surgery, body piercing, and tattooing: Before either parent consents to cosmetic surgery, body piercing or tattooing.

- vii. Child's Employment: Before a child gets a job or a volunteer commitment.
- viii. Entertainment/Access to technology: Before a child may view "R" rated movies, have a social media account, have a cell phone, have a gaming device or have unsupervised access to the internet.

**Parental Rights:**

- a. Each parent shall have access to all the children's educational, religious, and health care records.
- b. Each parent shall keep the other notified with respect to matters affecting the health, education, and welfare of the minor children.
- c. Each parent shall promptly notify the other party of any medical emergencies with respect to the minor children.
- d. Each parent shall keep the other informed of medical, dental, or psychological appointments, school activities, and extracurricular activities pertaining to the minor children.
- e. Each parent shall ensure that both their names are listed as emergency contact persons with the school corporation and properly identify which parent has pick up rights on specific days.
- f. Each parent shall be open-minded and cooperative in allowing each other on separate occasions to attend school lunches and school field trips when available because it is in the best interests of the children and doing so without creating conflict or overburdening the school corporation.

**Physical Custody**

9.  \_\_\_\_\_ shall have primary physical custody; subject to the other parent's parenting time.

**-OR-**

- The parents shall share joint physical custody on the following schedule:

- Alternating weeks, with \_\_\_\_\_ as the start day.
- A "5/2/2/5" plan, wherein the children spend the night with Parent A for 5 days, then Parent B for 2 days, then Parent A for 2 days, followed by 5 days with Parent B.
- A "2/2/3" plan, wherein the children spend 2 days with Parent A, 2 days with Parent B, and 3 days with Parent A, then switches the schedule the following week.
- A "3/4/4/3" plan, wherein the children spend 3 days with Parent A, 4 days with Parent B, 4 days with Parent A, 3 days with Parent B.
- Other:

**Indiana Parenting Time Guidelines**

10.  Parents have Joint Physical Custody as described above.

**-OR-**

- See Attached Agreed Parenting Plan

**-OR-**

This matter does not involve allegations of family violence, substance abuse, risk of flight with a child, or any other circumstances that represent a risk to the child's physical health or safety, or that would significantly impair the child's emotional development. **Thus, the Guidelines, with amendments through January 1, 2022, are in effect in this case, except as specifically modified in this Order.** Each parent may communicate freely with the child(ren) when the children are with either parent. Neither parent may prevent a child from communicating with the other parent. Any removal of a device from a child (i.e., for punishment) must not prevent communication with the other parent. When the children are participating in a practice, game, recital, performance, or another

such event at school, religious institution, or elsewhere, both parents may attend the event. Both parents can visit their children at school and volunteer as they wish as permitted by the school rules. The Indiana Parenting Time Guidelines are available online at: <http://www.in.gov/judiciary/rules/parenting/index.html>

**-OR-**

This matter DOES involve allegations of family violence, substance abuse, and risk of flight with a child, or other circumstances that the Court reasonably believes would endanger the children's physical health or safety or significantly impair the children's emotional development. Specifically,

Thus, the Indiana Parenting Time Guidelines ("Guidelines"), with amendments through January 1, 2022, are NOT in effect in this case. Parenting time shall be as follows:

### **Relocation**

Indiana law requires a notice to the other parent by certified mail prior to a move of residence unless 1) the move decreases the distance between the parents or 2) the move does not increase the distance between the parents by twenty (20) miles or more and the children can maintain their current schools.

### **Child Support**

11.  Child Support for the minor child(ren) shall be paid by  Filing Spouse  Responding Spouse. The amount to be paid each week is \$ \_\_\_\_\_ in accordance with the attached Child Support Worksheet Obligation. Child support payments should be made through the County Clerk's Office or the Indiana State Central Collection Unit, PO Box 7130 Indianapolis, IN 46220-7130. Parent shall likewise pay any assessed annual support fee.

**As required by statute, an immediate income withholding order shall be entered.**

\_\_\_\_\_ is directed to prepare and submit the income withholding order to the court within 7 days. Income Withholding Orders (IWO) are required by statute if you have a regular paying job. The IWO form may be found at the IWO Website <https://www.in.gov/dcs/child-support/custodial-party-information/income-withholding/> or at the Access to Justice Center located on the main floor of the Elkhart County Courthouse. *For information on how to pay for your child support see pages 10-12 of this Order.*

**-OR-**

Child Support is not requested at this time because:

**-OR-**

NO CHILD SUPPORT. Neither parent is obligated to pay for child support. Each parent shall provide direct support for the child(ren) for those periods when the child(ren) are in their physical custody. *(For use only in cases when parenting time is equally shared.)*

\_\_\_\_\_ shall be responsible for all controlled expenses related to the upbringing of the minor child(ren). *(For use only in cases when parenting time is equally shared.)*

**-OR-**

Child Support is deferred to the Title IV-D Program in Case No \_\_\_\_\_

## Tax Exemptions

Tax credits, exemptions, and deductions for the minor child(ren) shall be claimed in the following manner:

12.  Federal, state and local income taxes for the minor child(ren) shall be claimed exclusively by the  **Filing Spouse**  **Responding Spouse**.

-OR-

**Filing Spouse** has the exclusive right to claim the minor child(ren) for federal, state and local income taxes purposes in **even** number years. **Responding Spouse** has the exclusive right to claim the minor child(ren) for federal, state and local income taxes purposes in **odd** number years. *As provided in I.C. 31-16-6-1.5(d), "the parent may only claim the child as a dependent for federal, state and local income tax purposes if the parent has paid at least 95% of the parent's child support for the calendar year for which the parent is ordered to claim the child as dependent by January 31<sup>st</sup> of the following year." Thus, this order regarding the claim of the tax exemption is contingent upon the parent being current in the support payments for the calendar year for which the exemption is applicable. If not current on the child support obligation parent shall forfeit the exemption for that year.*

-OR-

- If the parties have more than one child, the Filing Spouse shall claim \_\_\_\_\_ children and the Responding Spouse shall claim \_\_\_\_\_ children for federal, state and local income taxes purposes each year.

## Health Insurance

The provisions for health insurance maintenance shall be as follows:

13. \_\_\_\_\_ is responsible for maintaining health insurance for the minor child(ren) either through employment, the marketplace if available at a reasonable cost or through government-provided insurance and is responsible for providing the other parent proof of this coverage on an annual basis while promptly notifying the other parent of any and all changes in the coverage.

**Filing Spouse** shall be responsible for \_\_\_\_\_% and **Responding Spouse** for \_\_\_\_\_% any reasonable and necessary uninsured medical, dental, orthodontic, hospital, vision, pharmaceuticals, and psychological expenses for the child(ren). Each parent shall regularly keep the other parent advised of these expenses incurred and shall provide all necessary documents related to these expenses (*bills, payments, amounts due, etc.*). Each parent shall promptly pay their portion of these expenses.

## Personal Property

14.  Parties have divided all of their personal property and the property in each spouse's possession is their property free and clear of any claim by the other spouse.

15. **Filing Spouse** is given, granted, and awarded their sole property free and clear of any and all claims which Responding Spouse may have therein, the following personal property:

All items of tangible personal property (*physical, movable items owned by individuals, such as furniture, jewelry, vehicles, and electronics*) in the possession of Filing Spouse, including:

- The following items of tangible personal property presently in the possession of Responding Spouse:

**These items of personal property shall be transferred to the physical possession of Filing Spouse within 30 days.**

All checking accounts, saving accounts, and other intangible property or assets which are in the sole name of the Filing Spouse.

All employment benefits held in Filing Spouse's name, through employment, whether vested or non-vested, including but not limited to group life insurance, all pension plans, profit sharing plans, medical plans, stock and/or bond purchases or savings plans.

**The Parties shall, within 30 days, execute all necessary and appropriate legal documents transferring all right, title, and interest in and to this property.**

16. **Responding Spouse** is given, granted, and awarded their sole property free and clear of any and all claims which Filing Spouse may have therein, the following personal property:

All items of tangible personal property (*physical, movable items owned by individuals, such as furniture, jewelry, vehicles, and electronics*) in the possession of Responding Spouse, including:

The following items of tangible personal property presently in the possession of Filing Spouse:

**These items of personal property shall be transferred to the physical possession of Responding Spouse within 30 days.**

All checking accounts, saving accounts, and other intangible property or assets which are in the sole name of the Responding Spouse.

All employment benefits held in Responding Spouse's name, through employment, whether vested or non-vested, including but not limited to group life insurance, all pension plans, profit sharing plans, medical plans, stock and/or bond purchases or savings plans.

**The Parties shall, within 30 days, execute all necessary and appropriate legal documents transferring all right, title, and interest in and to this property.**

### **Marital Residence**

17.  There is no marital residence.

**-OR-**

The parties own real estate located at, and commonly known as:

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The real estate shall now be the sole and separate property of  **Filing Spouse**  **Responding Spouse** and:

Parties shall execute a Quitclaim Deed and all necessary documents transferring all right, title, and interest in and to this real estate to  **Filing Spouse**  **Responding Spouse** there by extinguishing the interest of  **Filing Spouse**  **Responding Spouse** therein.

**-OR-**

**Filing Spouse**  **Responding Spouse** will refinance the mortgage debt related to the marital residence and make good faith effort to obtain a release of the other party on said debt on the earliest possible date. Upon release of the other party from mortgage debt, the other party shall transfer, by Quitclaim deed, his/her interest in said real estate. The party assuming responsibility for mortgage agrees to hold the other party harmless from all liability, expense, attorney fees, loss, or damages which may be a result of failure to make payments on said mortgage debt.

**-OR-**

Other (*explain*):

**Debts**

The division of **debts** shall be as follows:

18.  Parties have no joint outstanding debts for which they are responsible.

**-OR-**

**Filing Spouse** shall be solely responsible for any debts in their individual name and the following debts:

| <b>Name of Creditor</b> | <b>Amount of Debt</b> |
|-------------------------|-----------------------|
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |

**Responding Spouse** shall be solely responsible for any debts in their individual name and the following debts:

| <b>Name of Creditor</b> | <b>Amount of Debt</b> |
|-------------------------|-----------------------|
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |

**-OR-**

**Filing Spouse** shall be responsible for the following debts:

| <b>Name of Creditor</b> | <b>Amount of Debt</b> |
|-------------------------|-----------------------|
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |

**Responding Spouse** shall be responsible for the following debts:

| <b>Name of Creditor</b> | <b>Amount of Debt</b> |
|-------------------------|-----------------------|
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |
| _____                   | \$ _____              |

**Each party shall pay indebtedness incurred in their own separate name after the separation date listed above. Filing Spouse shall hold Responding Spouse harmless for all debt assigned to Filing Spouse herein, and Responding Spouse shall hold Filing Spouse harmless for all debt assigned to Responding Spouse herein.**

19. Other:

20. The marriage should be declared null and void due to:

- The purported marriage is invalid because unknown to one spouse the other spouse was underage at the time of marriage
- The purported marriage is invalid because unknown to one spouse the other spouse was legally married to a third party at the time of the referenced ceremony
- The purported marriage is invalid because one spouse was coerced (under duress) or convinced to marry by fraud (explain)

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- The purported marriage is invalid because one spouse was mentally incompetent at the time of the marriage (explain)

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- The purported marriage is invalid because the spouses are more closely related then second cousins
- The purported marriage is invalid because (explain)

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21. Findings of the Court

The Court, having held a hearing, now finds that the property distribution provisions of this order constitute a presumptive equal division of marital property and is therefore just and reasonable.

IT IS THEREFORE ORDERED by the court that the parties' marriage is hereby declared null and void.

SO ORDERED \_\_\_\_\_

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Judicial Officer  
Elkhart Superior Court 6

Distribution:

Filing Spouse: \_\_\_\_\_

Responding Spouse: \_\_\_\_\_

Address:

Address: