

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. 43,647

IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
	§	
ALLISON GELBE-PINKUS	§	
AND	§	510TH JUDICIAL DISTRICT
MARK PINKUS	§	
	§	
AND IN THE INTEREST OF	§	
TODD PINKUS, THOMAS PINKUS	§	
AND LUCY PINKUS, CHILDREN	§	DENTON COUNTY, TEXAS

AGREED TEMPORARY ORDERS

On December 14, 2018, the Court considered the parties’ agreement as set forth in these *Agreed Temporary Orders*.

1. *Appearances*

Petitioner, MARK PINKUS, has agreed to the terms of this order as evidenced by his signature and the signature of Petitioner’s attorney of record, Cindy V. Tisdale, herein below.

Respondent, ALLISON GELBE-PINKUS, has agreed to the terms of this order as evidenced by his signature and the signature of Respondent’s attorney of record, Christopher K. Wrampelmeier, herein below.

2. *Jurisdiction*

The Court, after examining the record and the agreement of the parties and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that the Court has jurisdiction of this case and of all the parties.

3. Children

The following orders are for the safety and welfare and in the best interest of the following children:

Name: THOMAS PINKUS
Sex: Male
Birth date: March 1, 2013
Home state: Texas

Name: TODD PINKUS

Sex: Male
Birth date: March 1, 2013
Home state: Texas

Name: LUCY PINKUS
Sex: Female
Birth date: November 5, 2018
Home state: Texas

IT IS ORDERED that MARK PINKUS and ALLISON GELBE-PINKUS are appointed Temporary Joint Managing Conservators of the following children Thomas Pinkus, Todd Pinkus and Lucy Pinkus.

IT IS ORDERED that, at all times, MARK PINKUS and ALLISON GELBE-PINKUS as parent temporary joint managing conservators, shall each have the following rights:

1. the right to receive information from any other conservator of the children concerning the health, education, and welfare of the children;
2. the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the children;
3. the right of access to medical, dental, psychological, and educational records of the children;
4. the right to consult with a physician, dentist, or psychologist of the children;
5. the right to consult with school officials concerning the children's welfare and educational status, including school activities;
6. the right to attend school activities;
7. the right to be designated on the children's records as a person to be notified in case of an emergency;
8. the right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the children; and
9. the right to manage the estates of the children to the extent the estates have been created by the parent or the parent's family.

IT IS ORDERED that, at all times, MARK PINKUS and ALLISON GELBE-PINKUS as parent temporary joint managing conservators, shall each have the following duties:

1. the duty to inform the other conservator of the children in a timely manner of significant information concerning the health, education, and welfare of the children;

2. the duty to inform the other conservator of the children if the conservator resides with for at least thirty days, marries, or intends to marry a person who the conservator knows is registered as a sex offender under chapter 62 of the Texas Code of Criminal Procedure or is currently charged with an offense for which on conviction the person would be required to register under that chapter. IT IS ORDERED that notice of this information shall be provided to the other conservator of the children as soon as practicable, but not later than the fortieth day after the date the conservator of the children begins to reside with the person or on the tenth day after the date the marriage occurs, as appropriate. IT IS ORDERED that the notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE;

3. the duty to inform the other conservator of the children if the conservator establishes a residence with a person who the conservator knows is the subject of a final protective order sought by an individual other than the conservator that is in effect on the date the residence with the person is established. IT IS ORDERED that notice of this information shall be provided to the other conservator of the children as soon as practicable, but not later than the thirtieth day after the date the conservator establishes residence with the person who is the subject of the final protective order. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE;

4. the duty to inform the other conservator of the children if the conservator resides with, or allows unsupervised access to a child by, a person who is the subject of a final protective order sought by the conservator after the expiration of the sixty-day period following the date the final protective order is issued. IT IS ORDERED that notice of this information shall be provided to the other conservator of the children as soon as practicable, but not later than the ninetieth day after the date the final protective order was issued. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE; and

5. the duty to inform the other conservator of the children if the conservator is the subject of a final protective order issued after the date of the order establishing conservatorship. IT IS ORDERED that notice of this information shall be provided to the other conservator of the children as soon as practicable, but not later than the thirtieth day after the date the final protective order was issued. WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE.

IT IS ORDERED that, during their respective periods of possession, MARK PINKUS and ALLISON GELBE-PINKUS, as parent temporary joint managing conservators, shall each have the following rights and duties:

1. the duty of care, control, protection, and reasonable discipline of the children;

2. the duty to support the children, including providing the children with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
3. the right to consent for the children to medical and dental care not involving an invasive procedure; and
4. the right to direct the moral and religious training of the children.

IT IS ORDERED that MARK PINKUS, as a parent temporary joint managing conservator, shall have the following rights and duty:

1. the independent right, after prior written notice to and consultation with the other parent conservator, to consent to medical, dental, and surgical treatment involving invasive procedures;
2. the independent right, after prior written notice to and consultation with the other parent conservator, to consent to psychiatric and psychological treatment of the children;
3. the independent right to represent the children in legal action and to make other decisions of substantial legal significance concerning the children;
4. the right subject to the agreement of the other parent conservator to consent to marriage and to enlistment in the armed forces of the United States;
5. the independent right to make decisions concerning the children's education;
6. except as provided by section 264.0111 of the Texas Family Code, the independent right to the services and earnings of the children;
7. except when a guardian of the children's estates or a guardian or attorney ad litem has been appointed for the children, the independent right to act as an agent of the children in relation to the children's estates if the children's action is required by a state, the United States, or a foreign government; and
8. the independent duty to manage the estates of the children to the extent the estates have been created by community property or the joint property of the parents.

IT IS ORDERED that ALLISON GELBE-PINKUS, as a parent temporary joint managing conservator, shall have the following rights and duty:

1. the exclusive right to designate the primary residence of the children within Denton County, with the exception that the children shall remain in San Francisco to finish the 2018-2019 school year;
2. the independent right, after prior written notice to and consultation with the other parent conservator, to consent to medical, dental, and surgical treatment involving invasive procedures;

2. the independent right, after prior written notice to and consultation with the other parent conservator, to consent to psychiatric and psychological treatment of the children;
3. the independent right to represent the children in legal action and to make other decisions of substantial legal significance concerning the children;
4. the right subject to the agreement of the other parent conservator to consent to marriage and to enlistment in the armed forces of the United States;
5. the independent right to make decisions concerning the children's education;
6. except as provided by section 264.0111 of the Texas Family Code, the independent right to the services and earnings of the children;
7. except when a guardian of the children's estates or a guardian or attorney ad litem has been appointed for the children, the independent right to act as an agent of the children in relation to the children's estates if the children's action is required by a state, the United States, or a foreign government; and
8. the independent duty to manage the estates of the children to the extent the estates have been created by community property or the joint property of the parents.

The Court finds that, in accordance with section 153.001 of the Texas Family Code, it is the public policy of Texas to assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child, to provide a safe, stable, and nonviolent environment for the child, and to encourage parents to share in the rights and duties of raising their child after the parents have separated or dissolved their marriage. IT IS ORDERED that the primary residence of the children shall be Denton County, Texas, and the parties shall not remove the children from Denton County, Texas for the purpose of changing the primary residence of the children until modified by further order of the court of continuing jurisdiction or by written agreement signed by the parties and filed with the court.

4. Possession and Access

The Court finds that the following provisions of this Temporary Possession Order are in the best interest of the child, and the Court finds that good cause exists to deviate from the Standard Possession Order contained in the Texas Family Code at sections 153.311 through 153.317, as the Standard Possession Order is unworkable or inappropriate under the circumstances.

IT IS ORDERED that each conservator shall comply with all terms and conditions of this Temporary Possession Order. IT IS, THEREFORE, ORDERED:

(a) Definitions

1. In this Temporary Possession Order "school" means the primary or secondary school in which the child is enrolled or, if the child is not enrolled

in a primary or secondary school, the public school district in which the child primarily resides.

2. In this Temporary Possession Order “child” includes each child, whether one or more, who is a subject of this suit while that child is under the age of eighteen years and not otherwise emancipated.

(b) Mutual Agreement or Specified Terms for Possession

IT IS ORDERED that the conservators shall have possession of the child at times mutually agreed to in advance by the parties, and, in the absence of mutual agreement, it is ORDERED that the conservators shall have possession of the child under the specified terms set out in this Temporary Possession Order.

(c) Temporary Possession of the Children

During the 2018-2019 School Year, MARK PINKUS shall have the right to possession of Todd and Thomas Pinkus as follows:

1. Sundays-Fridays When School Is in Session: On Sundays of each week beginning at 6:00 p.m. and ending at 6:00 p.m. on the following Friday.

Beginning May 24, 2019 and continuing thereafter, MARK PINKUS shall have the right to possession of Todd and Thomas Pinkus as follows:

1. Weekends Beginning May 24, 2019: Every first, third and fifth Friday, beginning at 6:00 p.m. on Friday and ending 6:00 p.m. the following Sunday.

MARK PINKUS shall have possession of Lucy Pinkus as follows:

1. Every first, third and fifth Saturday and Sunday from 9:00 a.m. until 5:00 p.m. the same day.

(d) Undesignated Periods of Possession

ALLISON GELBE-PINKUS shall have the right of possession of the child at all other times not specifically designated in this Temporary Possession Order for MARK PINKUS.

This concludes this Temporary Possession Order.

5. *Child Support*

IT IS ORDERED that MARK PINKUS shall timely pay directly to ALLISON GELBE-PINKUS for the support of Thomas Pinkus, Todd Pinkus and Lucy Pinkus Five Thousand Dollars (\$5,000.00) per month, with the first payment being due and payable on January 1, 2019 and a like

payment being due and payable on the first day of each month thereafter until further order of this Court.

Withholding from Earnings

IT IS ORDERED that any employer of MARK PINKUS shall be ordered to withhold from earnings for child support from the disposable earnings of MARK PINKUS for the support of Thomas Pinkus, Todd Pinkus and Lucy Pinkus.

IT IS FURTHER ORDERED that all amounts withheld from the disposable earnings of MARK PINKUS by the employer and paid in accordance with the order to that employer shall constitute a credit against the child support obligation. Payment of the full amount of child support ordered paid by this order through the means of withholding from earnings shall discharge the child support obligation. If the amount withheld from earnings and credited against the child support obligation is less than 100 percent of the amount ordered to be paid by this order, the balance due remains an obligation of MARK PINKUS, and it is hereby ORDERED that MARK PINKUS pay the balance due directly to the state disbursement unit specified below.

On this date the Court authorized the issuance of an Order/Notice to Withhold Income for Child Support.

Suspension of Withholding from Earnings

The Court finds that the parties have agreed that no order to withhold from earnings for child support should be delivered to any employer of MARK PINKUS as long as no delinquency or other violation of this child support order occurs and as long as the Office of the Attorney General Child Support Division is not providing services to ALLISON GELBE-PINKUS. For the purpose of this provision, a delinquency has occurred if MARK PINKUS has been in arrears for an amount due for more than thirty days or the amount of the arrearages equals or is greater than the amount due for a one-month period. If a delinquency or other violation occurs or if the Office of the Attorney General Child Support Division begins providing services to ALLISON GELBE-PINKUS, the clerk shall deliver the order to withhold earnings as provided above.

ACCORDINGLY, IT IS ORDERED that, as long as no delinquency or other violation of this child support order occurs and as long as the Office of the Attorney General Child Support Division is not providing services to ALLISON GELBE-PINKUS, all payments shall be made directly to ALLISON GELBE-PINKUS for the support of the children. If a delinquency or other violation occurs or if the Office of the Attorney General Child Support Division begins providing services to ALLISON GELBE-PINKUS, all payments shall be made in accordance with the order to withhold earnings as provided above.

Payment

IT IS ORDERED that all payments shall be made through the state disbursement unit at Texas Child Support Disbursement Unit, P.O. Box 659791, San Antonio, Texas 78265-9791, and

thereafter promptly remitted to ALLISON GELBE-PINKUS for the support of the children. IT IS ORDERED that each party shall pay, when due, all fees charged to that party by the state disbursement unit and any other agency statutorily authorized to charge a fee.

Change of Employment

IT IS FURTHER ORDERED that MARK PINKUS shall notify this Court and ALLISON GELBE-PINKUS by U.S. certified mail, return receipt requested, of any change of address and of any termination of employment. This notice shall be given no later than seven days after the change of address or the termination of employment. This notice or a subsequent notice shall also provide the current address of MARK PINKUS and the name and address of his current employer, whenever that information becomes available.

Clerk's Duties

IT IS ORDERED that, on the request of a prosecuting attorney, the title IV-D agency, the friend of the Court, a domestic relations office, ALLISON GELBE-PINKUS, MARK PINKUS, or an attorney representing ALLISON GELBE-PINKUS or MARK PINKUS, the clerk of this Court shall cause a certified copy of the Income Withholding for Support to be delivered to any employer.

Required Notice

EACH PERSON WHO IS A PARTY TO THIS ORDER IS ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY OF ANY CHANGE IN THE PARTY'S CURRENT RESIDENCE ADDRESS, MAILING ADDRESS, HOME TELEPHONE NUMBER, NAME OF EMPLOYER, ADDRESS OF EMPLOYMENT, DRIVER'S LICENSE NUMBER, AND WORK TELEPHONE NUMBER. THE PARTY IS ORDERED TO GIVE NOTICE OF AN INTENDED CHANGE IN ANY OF THE REQUIRED INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY ON OR BEFORE THE 60TH DAY BEFORE THE INTENDED CHANGE. IF THE PARTY DOES NOT KNOW OR COULD NOT HAVE KNOWN OF THE CHANGE IN SUFFICIENT TIME TO PROVIDE 60-DAY NOTICE, THE PARTY IS ORDERED TO GIVE NOTICE OF THE CHANGE ON OR BEFORE THE FIFTH DAY AFTER THE DATE THAT THE PARTY KNOWS OF THE CHANGE.

THE DUTY TO FURNISH THIS INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY CONTINUES AS LONG AS ANY PERSON, BY VIRTUE OF THIS ORDER, IS UNDER AN OBLIGATION TO PAY CHILD SUPPORT OR ENTITLED TO POSSESSION OF OR ACCESS TO A CHILD.

FAILURE BY A PARTY TO OBEY THE ORDER OF THIS COURT TO PROVIDE EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY WITH THE CHANGE IN THE REQUIRED INFORMATION MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

Notice shall be given to the other party by delivering a copy of the notice to the party by registered or certified mail, return receipt requested. Notice shall be given to the Court by delivering a copy of the notice either in person to the clerk of this Court or by registered or certified mail addressed to the clerk at 1450 E McKinney St, Denton, TX 76209. Notice shall be given to the state case registry by mailing a copy of the notice to State Case Registry, Contract Services Section, MC046S, P.O. Box 12017, Austin, Texas 78711-2017

NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE TERMS OF CHILD CUSTODY SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CLAIM, CIVIL OR OTHERWISE, REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THE ORDER THAT RELATE TO CHILD CUSTODY. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS \$10,000.

WARNINGS TO PARTIES: FAILURE TO OBEY A COURT ORDER FOR CHILD SUPPORT OR FOR POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

FAILURE OF A PARTY TO MAKE A CHILD SUPPORT PAYMENT TO THE PLACE AND IN THE MANNER REQUIRED BY A COURT ORDER MAY RESULT IN THE PARTY'S NOT RECEIVING CREDIT FOR MAKING THE PAYMENT.

FAILURE OF A PARTY TO PAY CHILD SUPPORT DOES NOT JUSTIFY DENYING THAT PARTY COURT-ORDERED POSSESSION OF OR ACCESS TO A CHILD. REFUSAL BY A PARTY TO ALLOW POSSESSION OF OR ACCESS TO A CHILD DOES NOT JUSTIFY FAILURE TO PAY COURT-ORDERED CHILD SUPPORT TO THAT PARTY.

6. *Temporary Spousal Support*

IT IS ORDERED that MARK PINKUS shall pay to ALLISON GELBE-PINKUS as temporary spousal support the amount of seventy thousand and no/100 dollars (\$70,000.00) per month in two equal installments, with the first payment of \$35,000.00 being due and payable on January 1, 2019 and a like payment of \$35,000.00 being due and payable on the 1st and 15th days of each month thereafter until further order of this Court. IT IS ORDERED that MARK PINKUS shall timely pay each support payment to ALLISON GELBE-PINKUS by direct account electronic transfer from MARK PINKUS's Wells Fargo checking account ending in the last four digits #8731 into ALLISON GELBE-PINKUS's Wells Fargo checking account ending in the last four digits #6126.

7. *Payment of Reasonable and Necessary Attorney's Fees*

MARK PINCUS agrees to pay interim attorney's fees and costs in the amount of \$100,000.00 as set forth herein. IT IS ORDERED that MARK PINKUS shall deliver a cashier's check in the amount of fifty thousand and no/100 dollars (\$50,000.00) to Christopher Wrampelmeier, Hays, Haston & Wrampelmeier, at 1850 Sycamore Street, Denton, TX 76025, on or before 5:00 p.m. on December 20, 2018. IT IS FURTHER ORDERED that MARK PINKUS shall deliver a cashier's check in the amount of fifty thousand and no/100 dollars (\$50,000.00) to Christopher Wrampelmeier, Hays, Haston & Wrampelmeier, at 1850 Sycamore Street, Denton, TX 76025, on or before 5:00 p.m. on February 1, 2019. IT IS ORDERED that the interim attorney fee payments set forth herein shall be payable as additional spousal support for the benefit of ALLISON GELBE-PINKUS.

The parties agree and IT IS THEREFORE ORDERED that nothing herein shall prohibit ALLISON GELBE-PINKUS from seeking additional interim attorney's fees and costs at a later date.

8. *Exclusive Use of Residences*

IT IS ORDERED that Petitioner have the exclusive and private use and possession of the following property while this case is pending: the real property located at 5400 Hwy 455, Little Elm, Denton County, Texas 76258, as well as the personal property located at that property.

IT IS ORDERED that Petitioner have the exclusive and private use and possession of the following property while this case is pending: the residence located at 2300 California Street, Unit 2301, San Francisco, California 94123, as well as the personal property located at that property.

9. *Duration*

These *Agreed Temporary Orders* shall continue in force until further order of this Court.

SIGNED on December 14, 2018.

/s/ _____
JUDGE PRESIDING

APPROVED AS TO FORM:

Hays, Haston & Wrampelmeier
1850 Sycamore Street,
Denton, Texas 76025
Tel: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: Chris@HHW.com

By: /s/ Christopher K. Wrampelmeier
Christopher K. Wrampelmeier
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By: /s/ Cindy V. Tisdale
Cindy V. Tisdale
State Bar No. 00792700
Attorney for Respondent

APPROVED AS TO FORM AND SUBSTANCE:

/s/
ALLISON GELBE-PINKUS, Petitioner

/s/
MARK PINKUS, Respondent