

CAUSE NO. CVPC-07-37767

IN THE INTEREST OF) **IN THE DISTRICT COURT**
)
TYLER MICHAEL WAYNE HANKINS,) **52ND JUDICIAL DISTRICT**
)
A CHILD) **CORYELL COUNTY**

**MOTION FOR CLARIFICATION OF AGREED ORDER IN SUIT
AFFECTING THE PARENT-CHILD RELATIONSHIP AND ORDER
SETTING HEARING**

This Motion for clarification is brought by Diana Hankins, Movant. In support, Movant shows:

1. Discovery is intended to be conducted under Level 2 of rule 190 of the Texas Rules of Civil Procedure.
2. This court has continuing, exclusive jurisdiction of this case as a result of prior proceedings.
3. Mark VornKahl, respondent is entitled to notice and should be served with process at 1408 Avenue F, Moody, Texas 76557.
4. On January 28, 2009, this Court signed what purports to be an “Agreed Order In Suit Affecting The Parent-Child Relationship”. Movant never signed this agreed order. Specifically, Movant had changes to the proposed order that include adding Somervell County, as a county were she had the exclusive right to designate the primary residence of the child. Additionally, the child only turned two years old in December of 2008. It was understood possession intended by a holiday only when the child started school.
5. The court should modify the order for possession by Respondent due to a material and substantial change in condition of the child. A severe conflict has arisen between the child’s parents to the point of the inability to reach shared decisions about the child and are unwilling to communicate with one another.
6. The child only turned two years old in December of 2008. The Texas Family Code provides that “The court shall render and ordered appropriate under the

circumstances for possession of a child as outlined in the order due to the child's age. Additionally, under most provisions of the order it provides for possession

by Respondent when the child starts attending school. This is unworkable as the child is too young to attend school.

7. Alternatively, the agreed order is confusing and needs to be clarified regarding Respondent's right to Thursday possession, summer possession and weekend possession extended by a holiday. All of the provisions in the agreed order dealing with these matters are for a child in school. Since the child just turned two years old, these provisions would not apply until the child was at least five year old.
8. Movant believes that the provisions of the order dealing with Respondent's possession of the child at such a young age and due to parental conflict should be modified. Additionally, the provisions of the order dealing with the child being in school are not specific enough to be enforceable. Movant request the court to modify, construct, and clarify the terms of the agreed order to make specific:
 - a) That Respondent no have Thursday possession, summer possession and weekend possession extended by a holiday, and any other possession that mentions possession by Respondent related to the child's school attendance;
 - b) Alternatively, that Respondent does have Thursday possession, summer possession and weekend possession extended by a holiday, and any other possession that mentions possession by Respondent related to the child's school attendance, until the child is older; or
 - c) Alternatively, clarify the possession by Respondent to make it enforceable when the child is three year old.
9. It was necessary to secure the services of Timothy N. Tesch, a licensed attorney to protect the rights of Diana Hankins. Respondent should be ordered to pay reasonable attorney's fees, expenses, and costs, and judgment should be rendered in favor of the attorney and against Respondent or , in the alternative, reasonable attorney's fees, expenses and cost should be taxed as costs and should be ordered paid directly to the undersigned attorney, who may enforce the order in the attorney's own name. Movant requests postjudgment interest as allowed by law.

Movant prays that the court grant this motion, attorney's fees, expenses, costs, and interest, and for all other relief authorized by law.

Respectfully submitted,
Tesch Law Firm

By: _____

Timothy N. Tesch
Attorney for Movant
State Bar No. 19808200

NOTICE OF HEARING

The above motion is set of hearing on _____ at _____m. in the
52nd Judicial District Court, Coryell County, Texas.

Signed on _____.

District Clerk