



DISTRICT COURT
FILED

APR 22 2016

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA
SALLY HOWE SMITH
COURT CLERK

[REDACTED])	[REDACTED]
)	
PETITIONER,)	[REDACTED]
)	
VS.)	[REDACTED]
)	
[REDACTED])	
)	
RESPONDENT.)	

MOTION TO MODIFY CUSTODY

COMES NOW the Petitioner, **[REDACTED]**, by and through his attorneys of record James R. Gotwals and Benjamin Aycock of JAMES R. GOTWALS & ASSOCIATES, INC., pursuant to the provisions of 43 O.S. §§ 110 and 112, and *Gibbons v. Gibbons*, 1968 OK 77, 442 P.2d 482, and for his Motion to Modify Custody, Petitioner alleges and states as follows:

1. That a *Decree* was entered and filed with the Circuit Court of Crawford County on November 27, 2006. Pursuant to said Decree, the Respondent is to be the primary caretaker of the minor child M.G.T., with Petitioner being granted specific visitation as set forth in the Decree. The aforementioned Decree has not been modified or vacated and remains in full force and effect.

2. That said Decree was registered as a foreign judgment with this Court by Order entered August 20, 2015.

3. That the Petitioner, the Respondent, and the minor child have all been residents of the State of Oklahoma for more than six (6) months. The Respondent and the minor child have been residents of Tulsa County since on or before January 12, 2007. The Petitioner has resided in Rogers County since April 27, 2015.

4. The District Court in and for Tulsa County, State of Oklahoma has jurisdiction in this matter pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, 43 O.S. Supp. 2001, §§ 551-101, *et seq.*, for the following reasons:

- a. Oklahoma has been the child's home state within six (6) months before the commencement of the instant proceeding. The Respondent and the minor child are currently a residents of Tulsa County, State of Oklahoma;
- b. It is in the best interest and welfare of the child that the District Court in and for Tulsa County, State of Oklahoma, assume jurisdiction because the child has a significant connection with this jurisdiction;
- c. It is in the best interest and welfare of said child that the District Court in and for Tulsa County, State of Oklahoma, assume jurisdiction because there is available in this jurisdiction substantial evidence concerning the child's past and future care, protection, training and personal relationships;
- d. Arkansas exercised initial child custody jurisdiction in this matter under 43 O.S. § 551-201 of the Uniform Child Custody Jurisdiction and Enforcement Act. However, this Court has jurisdiction to modify because Oklahoma is now the home state of the minor child, and the child and both parents are all now residents of Oklahoma;
- e. The child's present residential address is in Broken Arrow, Oklahoma, within Tulsa County.

- f. The Petitioner has not participated, nor is now participating, as a party, witness or in any other capacity, in any other proceeding concerning the custody or visitation with the child;
- g. The Petitioner has no knowledge of any other proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights or adoptions;
- h. The Petitioner has no knowledge of any person not a party to this proceeding who has physical custody of the child or claims right of legal custody or physical custody of, or visitation with, the child.

5. That since the entry of the last custody order, there has arisen a permanent, material, and substantial change of conditions that directly affects the best interests of the child, and that as a result of such change of circumstances, the child would be substantially better off with regard to her temporal, mental, and moral welfare if custody were modified. *Gibbons v. Gibbons*, 1968 OK 77, 442 P.2d 482.

6. That said change of conditions, includes but is not limited to:

- a. The Respondent has engaged in a course of conduct designed to poison and destroy the Petitioner's relationship with the minor child;
- b. The Respondent has shown a complete unwillingness to communicate and cooperate with the Petitioner with regard to exercising custody of the child;
- c. The Respondent does not have the proper parental temperament to be a custodial parent;
- d. The Respondent has been emotionally abusive to the minor child;

- e. The Respondent has been physically abusive with the minor child; and
- f. The minor child has expressed a preference to reside primarily with the Petitioner.

7. That Petitioner respectfully requests that this Court modify the *Decree* and award the Petitioner sole custody of the parties' minor child, subject to reasonable visitation with the Respondent.

8. That child support should be modified in accordance with the *Oklahoma Child Support Guidelines*.


9. That pursuant to the provisions of 43 O.S. § 110, Respondent should be ordered to pay Petitioner's attorneys fees and costs incurred in this matter.

WHEREFORE, PREMISES CONSIDERED, Petitioner, Richard Scott Thornton, prays for relief consistent with that requested herein, and for such other and further relief to which he may be entitled.

Respectfully submitted,



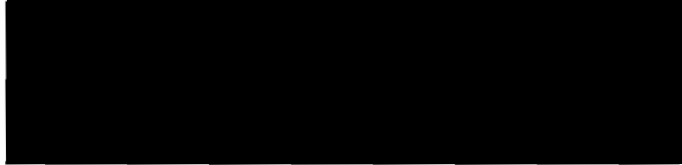
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ATTORNEYS FOR PETITIONER,



VERIFICATION PURSUANT TO 12 O.S. §426

I state under penalty of perjury under the laws of Oklahoma that I am the Petitioner in the above-entitled action; that I have read the above and foregoing *Motion to Modify Custody*; that I believe that the testimony and evidence at trial will prove the facts and matters therein set forth are true and correct.

Dated: April 19, 2016, in Tulsa, Oklahoma.



CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of April, 2016, a true and correct copy of the above and foregoing instrument was sent via First Class Mail with the proper amount of postage applied thereon, to the following:

Kimberly K. Hays, Esq.
248 West 16th Street
Tulsa, OK 74119
ATTORNEY FOR RESPONDENT,





Benjamin Aycock