

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI
ASSOCIATE DIVISION

FILED
SEP 14 2011

SANDRA L. DOWD
Clerk of the Circuit Court Platte County, MO

TERESA ANN (BOUILLON) PULIDO)
SSN: xxx-xx-3090)

Petitioner,)

vs.)

Case No.: 01CV85016-02

Division III

FILED
FEB 06 2012

SANDRA L. DOWD
Clerk of the Circuit Court Platte County, MO

STEPHEN DENNIS BOUILLON)
SSN: xxx-xx-4681)

Respondent.)

**JUDGMENT OF MODIFICATION OF
JUDGMENT AND DECREE OF DISSOLUTION OF MARRIAGE**

NOW ON the 15th and 18th day of August, 2011, Petitioner, Teresa Ann (Bouillon) Pulido, appeared in person and with counsel, Patrick M. Davis, Esq. Respondent, Stephen Dennis Bouillon, appeared in person and with counsel, Larry S. Buccero, Esq. The parties announced ready for trial and evidence was heard.

This cause was then taken under advisement.

NOW, ON THIS 14th day of September 2011, the Court, upon the pleadings and proof, after having heard and considered the testimony presented, having received all other evidence, having determined the weight and credibility to be given to the evidence and testimony presented by the parties, and being fully advised in the premises, makes the following findings of act and judgments:

1. That the marriage of Petitioner and Respondent was dissolved by Order of the District Court of Floyd County, Iowa, under Iowa Case Number CDDMO26499, in a Judgment Decree of Dissolution of Marriage.
2. That one child was born of the former marriage of the parties, namely Brody Stephen Bouillon, born June 14, 1995, Social Security Number xxx-xx-6662, who is currently sixteen (16) years of age.
3. That pursuant to said Iowa Judgment Decree of Dissolution of Marriage, Petitioner, Teresa Ann (Bouillon) Pulido was awarded "primary physical placement and primary custody of the minor child."
4. That pursuant to said Iowa Judgment Decree of Dissolution of Marriage, the court entered the following concerning the payment of child support, insurance, health insurance expenses, and dependency deductions, to wit:
 - a. "As and for child support, the Respondent shall pay child support pursuant to the Iowa Child Support Guidelines and in the amount of \$405.00 per month. Said support is for one child and shall be payable through the Clerk of the District Court, Floyd County Courthouse, Charles City, Iowa, and shall be for the benefit of the minor children. Said support shall continue until the child attains the age of eighteen (18) years or graduates from high school, whichever shall later occur. First payment due September 1, 1997."
 - b. "The Respondent shall receive the child as an exemption as for income tax purposes so long as child support is current at the end of the year."; and
5. That on or about January 10, 2002, Respondent registered the Iowa Divorce Judgment in the Circuit Court of Platte County, Missouri under Case Number 01CV85016.

6. That on or about June 12, 2003, this Court entered a Modification Judgment (hereinafter, the "2003 Modification Judgment") under Case Number 01CV85016-01 which modified the Iowa Divorce Judgment referred to in paragraph 5 above.
7. That the Court further finds that the 2003 Modification Judgment contained the following Order:
 - a. "Petitioner and Respondent shall have the joint legal and physical custody of the parties' minor child Brody Bouillon with Petitioner being designated as the primary residential and physical custodian of the said minor child with Respondent receiving parenting time with the said minor child, all as more fully provided for in the parenting plan which is set forth herein below and which is adopted as the parenting plan to govern the rights and duties of the parties in this cause with respect to their minor child Brody Bouillon."
 - b. "The presumed correct child support amount as calculated by the Court pursuant to §452.340.8, Rule 88.01, and Form 14 is \$723.00 per month, and that after consideration of all relevant factors pursuant to §452.340.8 and Rule 88.01, is not rebutted as being unjust or inappropriate."
 - c. "The Family Support Payment Center is appointed trustee for said child support payments due and owing to Petitioner by Respondent."
 - d. "Respondent shall have the dependency exemption of the minor child in each and every calendar year so long as he is current in his child support obligations due and owing Petitioner for the support and maintenance of the parties' minor child."
8. That this Judgment of Modification addresses the following pleadings filed by the parties' which were the basis of the trial referenced herein, to wit:

- a. Respondent's Motion for Modification Order Pertaining to Child Support filed on or about July 28, 2009; and
 - b. Petitioner's Answer to Respondent's Motion for Modification of Order Pertaining to Child Support and Counter-Motion to Modify Judgment and Order Respecting Custody, Parenting Time, and Child Support filed on or about August 29, 2009; and
 - c. Petitioner's Application for Order to Show Cause Why Respondent, Stephen Dennis Bouillon Should Not Be Held In Contempt of Court filed on or about November 1, 2010; and
 - d. Petitioner's First Amended Application for Order to Show Cause Why Respondent, Stephen Dennis Bouillon Should Not Be Held In Contempt of Court filed on or about March 22, 2011; and
 - e. Respondent's Amended Motion to Modify Seeking A Change In Residential Custody of the Minor Child filed on or about April 7, 2011; and
 - f. Petitioner's Second Amended Application for Order to Show Cause Why Respondent, Stephen Dennis Bouillon Should Not Be Held In Contempt of Court filed on or about August 5, 2011.
9. The Court has considered the testimony of the witnesses and has made judgments regarding the credibility of each witness. The findings and Orders made by the Court in this Judgment of Modification and Judgment of Contempt are consistent with the Court's determination of the credibility of the evidence and the testimony of the witnesses.
10. The Court has jurisdiction over the parties and the subject matter.

RESPONDENT'S MOTION TO MODIFY CHILD CUSTODY

11. The Court finds that it is required to provide written findings regarding particular factors the Court utilized to analyze the appropriate custodial arrangements for the child. The Court is providing its specific written findings as required by Missouri law, as more fully set forth herein.
12. That the Court further finds that its determination of custody set forth herein is in accordance with the best interests of the minor child as required by §452.375.2 RSMo (2011.)
13. That the Court finds, with respect to the wishes of the child's parents as to custody, and the proposed parenting plan submitted by both parties, as required by §452.375.2(1) (2011), the following:
 - a. That Petitioner testified that she believed continued joint legal and physical custody of the minor child remained in the child's best interests, with her address being the child's address for educational and mailing purposes. The child is doing well in school and both parties reside within the Park Hill School District. The child attends Park Hill South High School and both parties' residences are within the geographical limits of the Park Hill South High School area.
 - b. That Respondent testified that he believed continued joint legal and physical custody of the minor child remained in the child's best interests, but wanted the child to live primarily with him and further testified that his address should be the child's address for educational and mailing purposes.
 - c. That Petitioner testified the present Parenting Plan entered by the court in the 2003 Modification Judgment continued to serve the best interests of the minor child, and, therefore, did not tender a revised Parenting Plan. Both parties

testified that they have voluntarily deviated from that Plan on numerous occasions since the 2003 Modification Judgment.

- d. Respondent tendered a revised Parenting Plan, in the form of Respondent's Exhibit L, which calls for joint legal and physical custody with Respondent's address being the child's address for educational and mailing purposes. The Court rejects this plan as not being in the best interests of the minor child.
 - e. The Court further finds that the parenting plan established by this Court in the 2003 Modification Judgment continues to serve the best interests of the minor child, subject to any modifications set forth herein; and
 - f. The Court finds this factor to be in favor of Petitioner.
14. That the Court finds, with respect to the needs of the child for a frequent, continuing and meaningful relationship with both parents, and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child, as required by §452.375.2(2) RSMo (2011), the following:
- a. Petitioner testified that since the date of the 2003 Modification Judgment, she has afforded Respondent substantial time with the child, honored most all of Respondent Father's requests for additional parenting time with the child, and, outside formal Court proceedings and by agreement of the parties, allowed the minor child to reside in his father's home for the nine month school year from fall of 2007 to the spring of 2008.
 - b. Petitioner testified (and Respondent generally agreed) that Respondent generally did not honor her requests for additional parenting time with the parties' minor child during the fall of 2007 to the spring of 2008.

- c. Both parties testified regarding their ability and willingness to actively perform their functions as mother and father for the needs of the child and the court believes that both can carry out those functions;
 - d. Petitioner testified (and Respondent agreed) that Respondent arranged mental health counseling for the parties minor child without seeking her prior advice, counsel, or consent, and for a period of time withheld the identity of the mental healthcare provider and the dates and times of the scheduled counseling sessions.
 - e. Petitioner testified that she has primarily been responsible for transporting the minor child to and from medical, dental, hospitalization, and vision appointments, although she also testified that she had some assistance from Respondent in this regard.
 - f. Both parents have participated in the school activities of the child. Both have attended parent/teacher conferences and have maintained contact with the child's teachers and his school work. Both work at assisting the child meet his academic responsibilities.
 - g. Both parties have administered appropriate discipline regarding the child at varying times.
 - h. The Court finds this factor to be in favor of Petitioner.
15. That the Court finds, with respect to the interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests, as required by §452.375.2(3) RSMo (2011), the following:

- a. The child is very fortunate in that he has a positive relationship with both of his parents, and both of his step-parents as well. The child also enjoys his relationship with his nine (9) year old step-sister.
 - b. The parties and the child indicated that the child has had a few discipline problems in both parties' homes, but nothing the court considers alarming. The parties have dealt with those episodes appropriately. The parties and the child indicated that the child has been caught on two occasions stealing merchandise from stores. Both parties have dealt appropriately with these events as well.
 - c. The Court finds this factor to be neutral.
16. That the Court finds, with respect to which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent, as required by §452.375.2(4) RSMo (2011), the following:
- a. Petitioner testified that since the date of the 2003 Modification Judgment, she has afforded Respondent Father frequent, and meaningful parenting time with the minor child, and honored virtually all of Respondent's requests for additional parenting time (and Respondent admitted as much); Petitioner also allowed the minor child to reside in his father's home for the nine month school year from fall of 2007 to spring of 2008.
 - b. Petitioner testified that Respondent did not honor many of her requests for additional parenting time with the parties' minor child during the fall of 2007 to the spring of 2008 (and Respondent admitted as much.)
 - c. The court finds that although both parties have voluntarily deviated from the Parenting Plan set forth in the 2003 Modification Judgment, the court finds that

Petitioner is the parent more likely to allow the Respondent frequent and meaningful contact with the child, rather than vice versa.

- d. The Court finds this factor to be in favor of Petitioner.
17. That the Court finds, with respect to the child's adjustment to the child's home, school, and community, as required by §452.375.2(5) RSMo (2011), the following:
- a. Petitioner testified that her current home is the Park Hill School District, and the minor child attends Park Hill South High School. Father testified that he also resides in the Park Hill School District and his home is also within the geographical boundaries of the Park Hill South High School area.
- b. The child is doing well at school and is currently in the "A+" program.
- c. The minor child has been active in sports, specifically soccer, as well as various music groups, while in high school.
- d. The minor child has several friends in Petitioner's neighborhood, including those interested in soccer, with whom the child interacts.
- e. The child enjoys his time with his father and they participate in many activities together.
- f. The child is of driving age and can travel between the parties' respective residences with relative ease.
- g. The Court finds this factor to be neutral.
18. That the Court finds, with respect to the mental and physical health of all individuals involved, including any history of abuse of any individuals involved, as required by §452.375.2(6) RSMo (2011), the following:

- a. The Court finds that neither party tendered any evidence of any history of abuse directed by one against the other. There were no issues as to the mental or physical health of either party.
 - b. Both parties have the necessary physical and mental health to adequately care for the child.
 - c. The court finds this factor to be neutral.
19. That the Court finds, with respect to the intention of either parent to relocate the principal residence of the child, as required by §452.375.2(7) RSMo (2011), the following:
- a. Neither party testified that they had any intention of relocating the principal residence of the child.
 - b. The court finds this factor to be neutral.
20. That the Court finds, with respect to the wishes of a child as to the child's custodian, as required by §452.375.2(8) RSMo (2011), the following:
- a. An In Camera interview of the minor child was conducted upon the motion of Respondent and counsel for both parties was permitted to participate and question the child without restriction. The wishes of the child were ascertained and considered by the court in the rendering of this Judgment. This factor favors Respondent.
21. The Court finds that, based upon the pleadings and proof, Respondent has not met his burden of proof that there has been a substantial and continuing change in circumstances warranting a change in physical or legal custody of the minor child, nor warranting a change in the designation of the child's address for educational and mailing purposes. The court therefore finds that Respondent's Motion to Modify Child Custody should be denied.

RESPONDENT'S MOTION TO MODIFY CHILD SUPPORT

22. The Court finds that Petitioner is employed at Buck Roofing and Construction, LLC, and her social security number is xxx-xx-3090. Petitioner earns \$3,500.00 per month and this monthly income amount should be utilized for purposes of computing the Form 14 in this cause.
23. The Court further finds that Respondent Father is self-employed and his social security number is xxx-xx-4681. Respondent testified that his monthly income is approximately \$3,000.00 per month and this monthly income amount should be utilized for purposes of computing the Form 14 in this cause.
24. The Court further finds that Petitioner has available to her through her employment a policy of health, dental, vision and hospitalization insurance for the minor child at a cost of \$178.00 per month, and this is a reasonable monthly cost for said insurance, and this amount should be used in computing the Form 14 presumed child support amount in this cause.
25. The court rejects the form 14 child support calculations tendered by both parties.
26. The Court has prepared its own form 14 child support calculation, a copy of which is attached to this Judgment and incorporated herein by reference. The court finds that the correct presumed child support amount calculated pursuant to §452.340.8 RSMo (2011), Civil Procedure Rule 88.01, and Civil Procedure Form 14 is \$308.00 per month, and that after consideration of all relevant factors pursuant to §452.340.8 RSMo (2011) and Civil Procedure Rule 88.01 is not rebutted as unjust or inappropriate.
27. The Court finds that Respondent should pay to Petitioner child support in the sum of \$308.00 per month effective September 1, 2009.

28. The Court further finds that the Missouri Family Support Payment Center should be appointed as trustee for the receipt and remittance of said child support payments due and owing to Petitioner Mother from Respondent Father.
29. The Court further finds that Respondent Father's child support payments should continue to be paid by income withholding as no good cause exists for Respondent's child support payments to be paid directly to Petitioner; and

CONTEMPT

30. The Court further finds that Petitioner filed a verified Application for Order to Show Cause Why Respondent, Stephen Dennis Bouillon Should Not Be Held in Contempt of Court on or about November 1, 2010, under Case Number 01CV85016-02.
31. The Court further finds that Petitioner filed a verified First Amended Application for Order to Show Cause Why Respondent, Stephen Dennis Bouillon Should Not Be Held in Contempt of Court on or about March 14, 2011, under Case Number 01CV85016-02.
32. The Court further finds that Petitioner filed a verified Second Amended Application for Order to Show Cause Why Respondent, Stephen Dennis Bouillon Should Not Be Held in Contempt of Court on or about August 5, 2011, under Case Number 01CV85016-02. The Court further finds Respondent was duly served with each such Application.
33. The Court further finds that in each of the referenced Applications, Petitioner alleged that Respondent engaged in conduct and behavior that constitutes willful, contemptuous, and malicious disregard for this Court's prior Orders by failing or refusing to pay court ordered child support.
34. The Court further finds that Respondent testified that he is able bodied, capable of being employed and is in fact employed.

35. The Court further finds that Respondent, beginning in 2009, did not have the ability to comply with the Court's Orders regarding the payment of child support. Respondent had an electrical contracting business which experienced a large decrease in work and income starting in 2008 due to a tremendous downturn in the housing market in general. Respondent's largest client was a homebuilder by the name of Kevin Green. Respondent did virtually all the electrical wiring in all the houses Mr. Green built. When the housing market turned down, Mr. Green's building business also turned down, and as a result, Respondent's business virtually dried up through no fault of his own. Respondent had many employees in 2005, but only one in 2008. Respondent closed his business down and took a job in the archery department of Cablea's sporting goods store earning \$8.50 per hour, but was laid off. Respondent filed for bankruptcy in 2009. He is now taking on jobs doing not only doing electrical work, but plumbing, remodeling, and sheet rock/drywall work as well.
36. The Court finds that the Respondent's failure to comply with the Orders of this Court concerning payment of child support was not willful, contumacious or malicious, but rather was due to the downturn in the housing market in general and not due to the fault of Respondent.

ATTORNEYS FEES

37. The Court has considered the testimony of both parties and has considered all relevant factors. The court finds that each party should pay their own attorneys fees and court costs.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Petitioner and Respondent shall continue to share joint legal and joint physical custody of the parties' minor

child, Brody Stephen Bouillon, with Petitioner's address being designated as the child's address for educational and mailing purposes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Parenting Plan put into effect by this Court relative to the 2003 Modification Judgment continues to serve the best interests of the parties' minor child and shall remain in full force and effect, subject to any modifications as set forth herein. The parties are ordered to abide by the terms and conditions of said Parenting Plan, in conjunction with any modifications made to same in this Judgment of Modification.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Respondent's child support obligation to Petitioner shall be reduced to the sum of \$308.00 per month retroactive to September 1, 2009. Respondent's child support obligation shall continue to be due on the first day of each month and shall continue on a like day each month thereafter until the child is emancipated according to law or until further order of this court. All child support payments are to be made to the Family Support Payment Center as trustee for Petitioner at the following address: Family Support Payment Center, P.O. Box 109001, Jefferson City, MO 65110-9001.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Respondent shall immediately execute a wage assignment to be filed with the Clerk of the Circuit Court of Platte County, Missouri to facilitate income withholding to cover the award of child support ordered herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioner shall maintain policies of health, dental, vision and hospitalization insurance on the minor child as are available to her at the present time through her place of employment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioner shall be entitled to claim the patties' minor child as a dependent on her federal, state, and local income tax returns each year beginning with the tax year 2011.

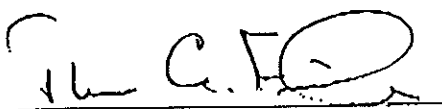
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Respondent is found **not** to be in contempt of the prior orders of this Court regarding child support as set forth herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall pay their own attorneys fees and court costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all other aspects of the prior Orders of this Court shall remain in full force an effect other than as modified herein, and the parties shall abide by those prior Orders. Any other requests for relief not specifically addressed herein are denied.

IT IS SO ORDERED.

Date: 9-14-11



Thomas C. Fincham, Judge
Division III
Platte County Circuit Court

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Court's Form 14
9-14-11

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

In re the Matter of PULIDO v BOULLON Case No. 01CV85016-02
Div/Ct Room JII

FORM NO. 14 CHILD SUPPORT AMOUNT CALCULATION WORKSHEET

<input checked="" type="checkbox"/> FATHER / <input type="checkbox"/> MOTHER is the "Parent Paying Support"	PARENT RECEIVING SUPPORT	PARENT PAYING SUPPORT	COMBINED
Total Number of Children: _____	3500	3000	
1. MONTHLY GROSS INCOME			
1a. Monthly court-ordered maintenance being received			
2. ADJUSTMENTS			
2a. Other monthly child support being paid under court or administrative order			
2b. Monthly court-ordered maintenance being paid			
2c. Monthly support obligation for other children			
(1) Number of other children primarily residing in each parent's custody			
(2) Each parent's support obligation from support schedule using the parent's Line 1 monthly gross income		2895	
(3) Monthly child support received under court or administrative order for children included in line 2c(1)			
2c. TOTAL adjustment [Line 2c(2) minus Line 2c(3)]			
3. ADJUSTED MONTHLY GROSS INCOME (sum of lines 1 and 1a, minus lines 2a, 2b and 2c)	3500	2405	5905
4. PROPORTIONATE SHARE OF COMBINED ADJUSTED MONTHLY GROSS INCOME (Each parent's line 3 income divided by combined line 3 income)	59.3%	40.7%	
5. BASIC CHILD SUPPORT AMOUNT (From support chart using combined line 3 income)			915
6. ADDITIONAL CHILD-REARING COSTS OF PARENTS			
6a. Child Care Costs of Parent Receiving Support			
(1) Reasonable work-related child care costs of parent receiving support			
(2) Child Care Tax Credit (See Form 14 Directions)			
6a. TOTAL adjusted Child Care Costs [Line 6a(1) minus Line 6a(2)]			
6b. Reasonable work-related child care costs of the parent paying support			
6c. Health Insurance costs for children who are the subjects of this proceeding	178		
6d. Uninsured agreed-upon or court-ordered extraordinary medical costs			
6e. Other agreed-upon or court-ordered extraordinary child-rearing costs			
7. TOTAL ADDITIONAL CHILD-REARING COSTS (Enter sum of lines 6a, 6b, 6c, 6d and 6e)	178		178
8. TOTAL COMBINED CHILD SUPPORT COSTS (Sum of line 5 and line 7)			1093
9. EACH PARENT'S SUPPORT OBLIGATION (Multiply line 8 by each parent's line 4)	648	445	
10. CREDIT FOR ADDITIONAL CHILD-REARING COSTS (Line 7 of parent paying support)		-	
11. ADJUSTMENT FOR A PORTION OF AMOUNTS EXPENDED DURING PERIODS OF OVERNIGHT VISITATION OR CUSTODY. (See Form 14 Directions) (Multiply line 9 by 15%)		(137)	
12. PRESUMED CHILD SUPPORT AMOUNT (Line 9 minus lines 10 and 11)		308	