

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

NO. CV-19-04-307-1

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
IAN EDWARD CRUZ,	§	JUDICIAL DISTRICT
	§	
A CHILD	§	WISE COUNTY, TEXAS

PETITION TO MODIFY PARENT-CHILD RELATIONSHIP

1. Discovery Level

Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

2. Parties and Order to Be Modified

This suit to modify a prior order is brought by MATTHEW PORTER, Petitioner. The last three numbers of MATTHEW PORTER's driver's license number are 682. The last three numbers of MATTHEW PORTER's Social Security number are 439. Petitioner is the father of the child and has standing to bring this suit. The requested modification will be in the best interest of the child.

Respondent is REBECCA NANCE.

The order to be modified is entitled Order Establishing The Parent-Child Relationship and was rendered on November 02, 2018..

3. Jurisdiction

This Court has continuing, exclusive jurisdiction of this suit.

4. Child

The following child is the subject of this suit:

Name: IAN EDWARD CRUZ

Sex: Male

Birth date: 12/07/2016

County of residence: Wise

5. *Parties Affected*

The following parties may be affected by this suit:

Name: REBECCA NANCE

Relationship: mother

Process should be served.

6. *Insurance Information*

Information required by section 154.181(b) and section 154.1815(c) of the Texas Family Code will be provided.

7. *Child's Property*

There has been no change of consequence in the status of the child's property since the prior order was rendered.

8. *Protective Order Statement*

No protective order under title 4 of the Texas Family Code, protective order under subchapter A of chapter 7B of the Texas Code of Criminal Procedure, or order for emergency protection under Article 17.292 of the Texas Code of Criminal Procedure is in effect in regard to a party to this suit or a child of a party to this suit and no application for any such order is pending.

9. *Modification of Conservatorship, Possession and Access*

The order to be modified is not based on a mediated or collaborative law settlement agreement. The circumstances of the child, a conservator, or other party affected by the order to

be modified have materially and substantially changed since the date of rendition of the order to be modified.

Petitioner requests that he be appointed as the person who has the right to designate the primary residence of the child.

Preceding the filing of this suit, Respondent has engaged in a history or pattern of child abuse and child neglect.

Petitioner requests that the Court consider this conduct in appointing the Petitioner as sole managing conservator or the parties as joint managing conservators.

Petitioner requests that the terms and conditions for access to or possession of the child be modified to provide as follows: Respondent's periods of possession should be restricted or supervised by an entity or person chosen by the Court. Reasonable periods of electronic communication between the child and Petitioner should be ordered to supplement Petitioner's periods of possession of the child.

There is a history or pattern of child neglect and abuse committed by Respondent. Petitioner requests the Court to deny Respondent access to the child. Alternatively, Petitioner requests that the Court render a possession order that provides that Respondent's periods of visitation be continuously supervised by an entity or person chosen by the Court.

The requested modification is in the best interest of the child.

10. Support

Petitioner requests that Respondent be ordered to pay child support.

Petitioner requests possession credit for the time that the child lived under his sole care, control and possession.

The requested modification is in the best interest of the child.

11. *Request for Temporary Orders*

Petitioner requests the Court, after notice and hearing, to make temporary orders for the safety and welfare of the child, including but not limited to the following:

Appointing Petitioner the temporary conservator who has the right to designate the primary residence of the child.

Ordering Respondent to provide support for the child, including the payment of child support and medical and dental support in the manner specified by the Court, while this case is pending.

Ordering reasonable periods of electronic communication between the child and Petitioner to supplement Petitioner's periods of possession of the child.

Enjoining Respondent from removing the child beyond the state of Texas, acting directly or in concert with others.

Denying Respondent access to the child or, alternatively, rendering a possession order providing that Respondent's periods of visitation be continuously supervised.

Ordering the parties to participate in an alternative dispute resolution process before trial of this matter.

Ordering Respondent to pay reasonable interim attorney's fees and expenses.

Ordering a pretrial conference to simplify the issues in this case and determine the stipulations of the parties and for any other matters the Court deems appropriate.

With regard to the requested temporary order for managing conservatorship, Petitioner would show the Court the following:

These temporary orders are necessary because the child's present circumstances would significantly impair the child's physical health or emotional development, and the requested

temporary order is in the best interest of the child. See the declaration of Petitioner attached as Exhibit A.

12. Request for Temporary Restraining Order

Petitioner requests the Court to dispense with the necessity of a bond, and Petitioner requests that Respondent be temporarily restrained immediately, without hearing, and after notice and hearing be temporarily enjoined, pending the further order of this Court, from:

Disturbing the peace of the child or of another party.

Withdrawing the child from enrollment in the school or day-care facility where the child is presently enrolled.

Hiding or secreting the child from Petitioner.

Making disparaging remarks regarding Petitioner or Petitioner's family in the presence or within the hearing of the child.

Consuming alcohol within the 12 hours before or during each of Respondent's periods of possession of or access to the child.

Canceling, altering, failing to renew or pay premiums on, or in any manner affecting the level of coverage that existed at the time this suit was filed of, any health or dental insurance policy insuring the child.

As the basis for the extraordinary relief requested below, Petitioner would show that before the filing of this petition Respondent has engaged in the conduct stated in the affidavit attached as Exhibit A. Based on that affidavit, Petitioner requests the Court to grant the following relief:

Issue an order attaching the body of the child, IAN EDWARD CRUZ.

Issue an order taking the child, IAN EDWARD CRUZ, into possession of the Court.

Issue an order excluding Respondent from possession of or access to the child, IAN EDWARD CRUZ.

13. Request for Permanent Injunction

Petitioner requests the Court, after trial on the merits, to grant the following permanent injunctions:

- a. Enjoining the parties from making disparaging remarks about the other parent or that parent's family in the presence of or within hearing distance to the subject child.
- b. discussing this litigation or any resulting court order with the subject child.

14. Request for Attorney's Fees, Expenses, Costs, and Interest

It was necessary for Petitioner to secure the services of Donald C. Nemec, a licensed attorney, to preserve and protect the child's rights. **If the parties are unable to reach an agreement on all issues**, Respondent should be ordered to pay reasonable attorney's fees, expenses, and costs through trial and appeal, and a judgment should be rendered in favor of this attorney and against Respondent and be ordered paid directly to Petitioner's attorney, who may enforce the judgment in the attorney's own name. Petitioner requests postjudgment interest as allowed by law.

15. Prayer

Petitioner prays that citation and notice issue as required by law and that the Court enter its orders in accordance with the allegations contained in this petition.

Petitioner prays that the Court immediately grant a temporary restraining order restraining Respondent, in conformity with the allegations of this petition, from the acts set forth above, and Petitioner prays that, after notice and hearing, this temporary restraining order be

made a temporary injunction.

Petitioner prays that, on final hearing, the Court enter a permanent injunction enjoining Respondent, in conformity with the allegations of this petition, from the acts set forth above.

Petitioner prays for attorney's fees, expenses, costs, and interest as requested above.

Petitioner prays for general relief.

Respectfully submitted,

LAW OFFICE OF DONALD NEMEC
P.O. Box 1932
Coppell, TX 75019
Tel: (817) 382-8333

By: /s/ Donald C. Nemec
Donald C. Nemec
State Bar No. 24049967
dcnemec@nemeclaw.com
Attorney for Petitioner

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NO. CV-19-04-307-1

IN THE INTEREST OF

IAN EDWARD CRUZ,

A CHILD

**§ IN THE DISTRICT COURT
§ JUDICIAL DISTRICT
§ WISE COUNTY, TEXAS**

PETITIONER'S SUPPORTING DECLARATION

“My name is Matthew Porter. I am above the age of eighteen years, and I am fully competent to make this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.

“I am the Petitioner in this case and the father of Ian Edward Cruz (6 years old).

“Rebecca Nance is the Respondent and mother (hereinafter sometimes referred to as ‘Rebecca’).

“I am well acquainted with the present environment of the child. The child's present environment may endanger his physical health or significantly impair his emotional development.

“I had actual custody, control, and possession of Ian since 2019, when CPS removed him from Rebecca’s care and placed him with me. At the time, Rebecca was involved with a family violence situation with her spouse and drug issues, which caused CPS to remove Ian and place him with me.

“I had Ian in my possession 100% of the time up until December, when Rebecca filed a writ and obtained possession of Ian.

“I have since found out that Rebecca has pending child endangerment charges among a long list of other criminal activity over the past several years. I am concerned that she is

currently in possession of our child, since she is facing child endangerment charges. I am further concerned because I do not know what would happen to my son if she were to get arrested again or get incarcerated due to her current charges.

“Rebecca has withheld Ian from me since she took him in December and I do not know his whereabouts or how he is doing. I am extremely concerned that he is in a dangerous situation, as I know Rebecca has been unstable for quite some time.

“When Ian was with me, he had a national grade level in school and was thriving. The only update I have received about Ian since Rebecca took him was a call from a Hurst ER about possible broken fingers. I have not gotten any update from Rebecca about what happened or how he is doing.

“Below is the pattern of conduct as perpetrated by Rebecca Nance:

09-02-2011 POSS CONT SUBST
05-10-2012 POSS CONT SUBST
10-27-2015 POSS CONT SUBST
05-24-2016 POSS CONT SUBST
01-06-2019 POSS CONT SUBST
03-17-2019 POSS CONT SUBST
12-10-2014 FALSE DRUG TEST FALSIFICATION DEVICE
09-09-2018 THEFT PROP >=\$100-\$750
01-06-2019 BURGLARY OF A HABITATION
03-17-2019 TAMP/FAB PHY EVID W/INT
02-07-2022 ABANDON ENDANGER CHILD CRIMINAL NEGLIGENCE
06-16-2022 ASSAULT CAUSES BODILY INJURY FAMILY VIOLENCE.

“I have filed this motion because the child's present environment may endanger his physical health or significantly impair his emotional development. I ask the court to schedule an emergency hearing and grant all relief requested in my motion.”

Declarant further sayeth naught.

Signed,

/s/ Matthew Porter
Matthew Porter

My name is Matthew Porter, my date of birth is 01/12/1993, and I reside in Tarrant county, Texas, United States. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Tarrant county County, Texas, on 1/11/2024.

/s/ Matthew Porter
Matthew Porter, Declarant

**WISE COUNTY STANDING ORDER REGARDING
CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES**

No party to this lawsuit has requested this order. Rather, this order is a standing order of the Wise County District Court that applies in every divorce suit and every suit affecting the parent-child relationship filed in Wise County. The District Court of Wise County has adopted this order because the parties and their children should be protected and their property preserved while the lawsuit is pending before the Court. Therefore, **IT IS ORDERED**:

1. **NO DISRUPTION OF CHILDREN.** Both parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this cause:

1.1 Removing the children from the State of Texas, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.

1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parties or an order of this Court.

1.3 Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.

1.4 Disturbing the peace of the children.

1.5 Making disparaging remarks about each other or the other person's family members, to include but not be limited to the child's grandparents, aunts, uncles, or stepparents.

1.6 Discussing with the children, or with any other person in the presence of the children, any litigation related to the children or the other party.

1.7 If this is an original divorce action, allowing anyone with whom the party is romantically involved, to remain overnight in the home while in possession of the children. Overnight is defined from 10:00 p.m. until 7:00 a.m.

2. **CONDUCT OF THE PARTIES DURING THE CASE.** Both parties are ORDERED to refrain from doing the following acts:

2.1 Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner to communicate with the other party, whether in person, by telephone, or in writing.

2.2 Threatening the other party in person, by telephone or in writing to take unlawful action against any person.

2.3 Placing one or more telephone calls, at an unreasonable hour, in an offensive or repetitious manner, without a legitimate purpose of communication, or anonymously.

2.4 Opening or diverting mail addressed to the other party.

3. **PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from the following acts:

3.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.

3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.

3.3 Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.

3.4 Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.

3.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real estate property, and whether separate or community, except as specifically authorized by this order.

3.6 Incurring any indebtedness, other than legal expense in connection with this suit, except as specifically authorized by this order.

3.7 Making withdrawals from any checking or savings account in any financial institution for any purpose, except as specifically authorized by this order.

3.8 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.

3.9 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order.

3.10 Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party.

3.11 Taking any action to terminate or limit credit or charge cards in the name of the other party.

3.12 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.

3.13 Discontinuing or altering the withholding for federal income taxes on wage or salary while this suit is pending.

3.14 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.

3.15 Intercepting or recording the other party's electronic communications.

4. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:

4.1 Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations.

4.2 Falsifying any writing or record relating to the property of either party.

4.3 "Records" include e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.

5. **INSURANCE IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:

5.1 Withdrawing or borrowing in any manner all or any part of the case surrender value of life insurance policies on the life of either party, except as specifically authorized by this order.

5.2 Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.

5.3 Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property of persons including the parties' minor children.

6. **SPECIFIC AUTHORIZATIONS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:

6.1 To engage in acts reasonable and necessary to the conduct of that party's usual business and occupation.

6.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.

6.3 To make expenditures and incur indebtedness for reasonable and necessary living expenses commensurate with such expenditures and indebtedness incurred for the past six months.

6.4 To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.

7. **SERVICE AND APPLICATION OF THIS ORDER.**

7.1 The Petitioner shall attach a copy of this order to the original petition and to each copy of this petition. At the time the petition is filed, if the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented.

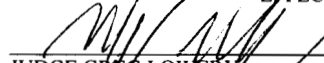
7.2 This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the day of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of this Court. This entire order will terminate and will no longer be effective when the Court signs a final order or the case is dismissed.

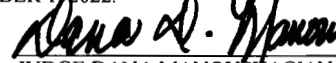
8. **EFFECT OF OTHER COURT ORDERS.** If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the Court signs a final decree.

9. **PARTIES ENCOURAGED/ORDERED TO MEDIATE.** The parties are encouraged to settle their disputes amicably without court intervention. In the event the parties are unable to settle their disputes, they are hereby ORDERED to use alternative dispute resolution methods, such as mediation, to settle those items that cannot be agreed to before setting a hearing on temporary orders or final orders.

THIS WISE COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES SHALL BECOME EFFECTIVE ON SEPTEMBER 1, 2022.


JUDGE BROCK R. SMITH
271ST JUDICIAL DISTRICT COURT
JACK AND WISE COUNTIES


JUDGE GREG LOWERY
WISE COUNTY
COUNTY COURT AT LAW NO. 1


JUDGE DANA MANOUSHAGIAN
WISE COUNTY
COUNTY COURT AT LAW NO. 2

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Maddie Ruiz on behalf of Donald Nemec
Bar No. 24049967
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Envelope ID: 84286193
Filing Code Description: Motion to Modify
Filing Description: PETITION TO MODIFY PARENT-CHILD
RELATIONSHIP
Status as of 2/8/2024 10:40 AM CST

Associated Case Party: MATTHEWDEWAYNEPORTER

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Alison Porterfield		alison@TeamSLF.com	2/8/2024 10:27:42 AM	SENT
Matthew Porter		matmattpp55@gmail.com	2/8/2024 10:27:42 AM	ERROR

Associated Case Party: ATTORNEY GENERAL

Name	BarNumber	Email	TimestampSubmitted	Status
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Associated Case Party: REBECCAJOLENENANCE

Name	BarNumber	Email	TimestampSubmitted	Status
Chad Petross		Petrosslaw@gmail.com	2/8/2024 10:27:42 AM	SENT

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Matthew DewaynePorter		mattmattpp55@gmail.com	2/8/2024 10:27:42 AM	SENT