

**NOTICE: THIS DOCUMENT  
CONTAINS SENSITIVE DATA**

**NO. CV18-02-126**

<b>IN THE INTEREST OF</b>	§	<b>IN THE</b> <u>COUNTY</u> <b>COURT</b>
<b>IAN EDWARD CRUZ</b>	§	
	§	<b>AT LAW #2</b>
	§	
<b>A CHILD</b>	§	<b>WISE COUNTY, TEXAS</b>

**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 Dewayne Porter, Petitioner. The last three numbers of Matthew Dewayne Porter's driver's license number are 133. The last three numbers of Matthew Dewayne 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 Jolene Nance.

The order to be modified is entitled *Order Establishing the Parent-Child Relationship* and was rendered on November 2, 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 Jolene Nance

Relationship: mother

Process should be served in Tarrant County Correction Center, where she is currently incarcerated.

Name: Office of the Attorney General

Relationship: Representing the State of Texas

The Office of the Attorney General can be served via the e-service system.

6. *Insurance Information*

Information required by section 154.181(b) and section 154.1815 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

Chapter 7A 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.

The conservator who has the exclusive right to designate the primary residence of the child has voluntarily relinquished the primary care and possession of the child to another person, and such temporary relinquishment is not a result of the conservator's military deployment, military mobilization, or temporary military duty as those terms are defined in section 153.701 of the Texas Family Code.

The order to be modified is not based on a mediated or collaborative law settlement agreement. This suit to modify the designation of the person having the exclusive right to designate the primary residence of the child is filed within one year after the date of the rendition of the order to be modified. Petitioner's declaration setting forth the statutory allegations and supporting facts is attached as Exhibit A.

Respondent has voluntarily surrendered the child to a non-parent care-giver as a result of an investigation by Child Protective Services.

Petitioner requests that he be appointed the conservator with the exclusive 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.

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*

The order to be modified is not based on a mediated or collaborative law settlement agreement. The circumstances of the child or a person affected by the order have materially and substantially changed since the date of the rendition of the order to be modified, and the Respondent should be ordered to pay child support until the child is eighteen years of age and, if the child is enrolled under chapter 25 of the Texas Education Code in an accredited secondary school in a program leading toward a high school diploma and complying with the minimum attendance requirements of subchapter C of chapter 25 of the Education Code, or enrolled under section 130.008 of the Education Code in courses for joint high school and junior college credit and complying with the minimum attendance requirements of subchapter C of chapter 25 of the Education Code, or enrolled on a full-time basis in a private secondary school in a program leading toward a high school diploma and complying with the minimum attendance requirements imposed by that school, until the end of the month in which the child graduates from high school. The support payments previously ordered are not in substantial compliance with the guidelines in chapter 154 of the Texas Family Code, and the requested increase would be in the best interest of

the child. Petitioner requests that any increase be made retroactive to the earlier of the time of service of citation on Respondent or the appearance of Respondent in this modification action.

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

*11. 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.

Hiding or secreting the child from Petitioner.

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

*12. 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. 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.

13. *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 for attorney's fees, expenses, costs, and interest as requested above.

Petitioner prays for general relief.

Respectfully submitted,

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By: /s/ Donald C. Nemec  
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Attorney for Petitioner

**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.**

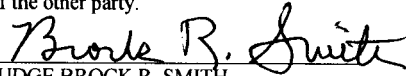
7.1 The Petitioner shall attach a copy of this order to the original petition and to each copy of this petition. At the time the petition is filed, if the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order 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 FEBRUARY 1, 2008.

  
JUDGE BROCK R. SMITH  
271<sup>ST</sup> JUDICIAL DISTRICT COURT  
JACK AND WISE COUNTIES

  
JUDGE MELTON D. CUDE  
WISE COUNTY  
COUNTY COURT AT LAW NO. 1

  
JUDGE STEPHEN J. WREN  
WISE COUNTY  
COUNTY COURT AT LAW NO. 2