

NICHOLAS J. SCHITONE

15TH JUDICIAL DISTRICT COURT

2017 APR 25 PM 2:18

DOCKET NO. 20172405

V.

BROOKE R. STOMA, and  
CANDYCE PERRET

LAFAYETTE PARISH, LOUISIANA

\*\*\*\*\*

PETITION FOR DEFAMATION

Now into court, through undersigned counsel, comes petitioner, NICHOLAS J. SCHITONE, a person of the full age of majority and a resident of Lafayette Parish, State of Louisiana, who respectfully represents as follows:

I.

Made defendants herein are the following:

(a) BROOKE R. STOMA, a person of the full age of majority and a resident of Lafayette Parish, State of Louisiana.

(b) CANDYCE PERRET, a person of the full age of majority and a resident of Lafayette Parish, State of Louisiana.

II.

Petitioner files this claim for damages in a reasonable amount to be fixed by this Honorable Court for defamation and slander for the following reasons, to wit:

III.

On or about April 17, 2017, and continuing through the present date, defendants caused to be published, on television and radio, a commercial advertisement supporting the candidacy of CANDYCE PERRET. The content of said commercial advertisement included defamatory statements about petitioner. It accused petitioner of being abusive toward his children and toward defendant, BROOKE R. STOMA. The content of the commercial accuses petitioner of belligerent behavior and acts, which constitute criminal activity, and other untoward behavior.

IV.

Although petitioner's name is not used in the commercial, the content of the commercial has made it obvious to petitioner's family, friends, and acquaintances that he is the subject of these accusations.

**COPY**

V.

Numerous people have indicated that they can positively identify the voice of defendant BROOKE R. STOMA as the person narrating the accusations in the commercial. Petitioner himself can positively identify the voice of defendant BROOKE R. STOMA as the person narrating the accusations in the commercial. Six persons have indicated a willingness to testify to their recognition of defendant's voice.

VI.

At the end of the television commercial, the female narrator is looking at a swingset in a backyard, and petitioner is able to recognize that female as defendant BROOKE R. STOMA.

VII.

Further, documents used as visual background material in the television commercial are documents that petitioner and his divorce attorney, Gay Babin, recognize as documents from the divorce proceedings between petitioner and defendant BROOKE R. STOMA. As an example, attached hereto as Exhibit A is a copy of the Interim Order awarding joint custody

VIII.

Defendant CANDYCE PERRET published these allegations with reckless disregard for the truth. A minimal investigation would have revealed that many of the allegations made by defendant BROOKE R. STOMA in the commercial were patently untrue and that defendant BROOKE R. STOMA actually petitioned for joint custody in her divorce proceeding, stating "It is in the best interest of the minor children of the marriage that joint custody be awarded to Petitioner, BROOKE RACHAL SCHITONE, and Defendant, NICHOLAS JOHN SCHITONE." (See Exhibit B, Petition for Divorce.)

IX.

For example, the commercial alleges that then Judge Susan Theall refused to hear the evidence, awarded joint custody of the children to petitioner and defendant in spite of defendant's objections, and ignored defendant's allegations of abuse. In fact, a simple review of the court record would have revealed that the parties amicably discussed joint custody and visitation schedules in open court, with Defendant BROOKE R. STOMA stating under oath that she agreed with the stipulations discussed. (See Exhibit C, Transcript.) Judge Theall was not asked to review the evidence by defendant BROOKE R. STOMA. The parties submitted a stipulated consent judgment, the Interim Order, wherein both sides agreed to joint custody.

Both sides were represented by attorneys, and either side could have demanded a hearing, but did not.

X.

The commercial also alleges that then Judge Susan Theall refused to look at reports from the children's doctor, and as a result, defendant BROOKE R. STOMA lives in fear of petitioner to this day. Again, a simple review of the court record would have revealed that Judge Theall ordered a psychological evaluation of the parties and the children. After that psychological evaluation, neither party requested that the court look at the doctor's opinions and reconsider the stipulated consent judgment of joint custody. Defendant BROOKE R. STOMA through her attorney, could have requested that the court reconsider the case, but she did not.

XI.

Defendant CANDYCE PERRET did not even make a cursory examination of the divorce record to investigate these facts, but instead, published the false accusations of defendant BROOKE R. STOMA with reckless disregard for the truth.

XII.

Likewise, the allegations of abuse and belligerent behavior against petitioner were not corroborated by the psychological evaluation of the doctor referred to in the commercial.

XIII.

Defendants have continued to defame petitioner by continuing to publish these radio and television advertisements.

XIV.

The actions of defendants constitute defamation. At all times material hereto, the statements and publications made by defendants were false, misleading, and untrue. The actions of defendants described herein were done with malice and with full knowledge of the falsehood of the representations made about petitioner. Thus, the actions were defamatory and libelous, subjecting defendants to the payment of petitioner's damages caused by those actions. Defendants made the above statements knowing them to be false and with actual malice, or with reckless disregard for the truth. The actions of defendants also constitute intentional infliction of emotional distress.

XV.

As a result of defendants' actions, petitioner has suffered public embarrassment, humiliation, and damage to his reputation. Petitioner has suffered past, present and future mental anguish and pain, and is entitled to recover compensatory damages from defendants. Petitioner has also suffered past, present and future loss of enjoyment of life, and injury to his reputation.

Petitioner itemizes his damages as follows:

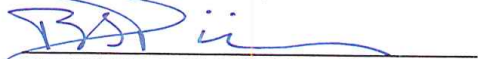
- a. Damage to reputation, both professional and personal ..... reasonable amount
- b. Humiliation ..... reasonable amount
- c. Mental anguish ..... reasonable amount
- d. Other losses to be fully described at trial ..... reasonable amount

XVI.

Petitioner further prays that defendants be ordered to cease and desist from further publication of the libelous and defamatory allegations being made against petitioner.

Wherefore, the premises considered, NICHOLAS J. SCHITONE, Petitioner herein, prays that defendants be duly cited and served herewith, and that after due proceedings be had, there be judgment herein in favor of petitioner and against defendants, jointly, severally, and in solido, for reasonable damages to be set in accordance with law, and for all equitable and general relief.

Respectfully Submitted,




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**PICCIONE & PICCIONE, APLC**  
 JAMES KIRK PICCIONE (17745)  
 BRENDA SIBILLE PICCIONE (18384)  
 P.O. Drawer 3029  
 Lafayette, LA 70502-3029  
 (337) 233-9030  
 Attorney for Petitioner

PLEASE SERVE:

**BROOKE R. STOMA**  
 22 Judge Canan Dr,  
 Crowley, LA 70526

AND

**CANDYCE PERRET**  
 1301 Camellia Blvd. Suite 400A  
 Lafayette, LA 70508

COURT OF COURT  
LAFAYETTE PARISH, LA  
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**Robert T. "Robby" Barousse**

Clerk of Court - Acadia Parish  
500 NE Court Circle, Crowley, LA 70526  
P.O. Box 922, Crowley, LA 70527-0922  
Phone: 337-788-8881

NOTICE OF SIGNING

BROOKE SCHITTONE  
Vs DOCKET #: 201310403 M  
NICHOLAS SCHITTONE

Date: July 17, 2013

GAY LYNN BABIN  
ATTORNEY AT LAW  
P O BOX 3352  
LAFAYETTE LA 70502

LAURA ROUGEAU  
ATTORNEY AT LAW  
P O BOX 260  
EUNICE, LA. 70535

In accordance with C.C.P. Article 1913, you are hereby noticed that a ORDER in the above entitled and numbered matter was signed on JULY 17, 2013 the ORDER attached hereto.

The INTERIM ORDER AND SHARED OBLIGATION WORKSHEET was filed on JULY 17, 2013.

  
JEVON E GUIDRY  
Deputy Clerk of Court  
Acadia Parish, Louisiana

cc: *Krist Schittone* 7/19/13 *RJ*



BROOKE SCHITONE

15<sup>TH</sup> JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO. 2013-10403 M

NICHOLAS SCHITONE

ACADIA PARISH, LOUISIANA

\*\*\*\*\*

INTERIM ORDER

This matter came before the Court on June 19, 2013 pursuant to the Objection to Hearing Officer's Recommendations filed on behalf of NICHOLAS SCHITONE. Considering the stipulations of the parties as evidenced by their respective attorneys below, judgment is rendered as follows:

IT IS ORDERED that each parent shall enjoy custodial periods with the minor children on a seven and seven rotating basis. The parties shall share the child's custodial time in an equal manner as follows:

Each party shall be entitled to enjoy a period of seven days with the minor children, from Sunday at 5:00 P.M. until the following Sunday at the same time.

The party who is not enjoying the seven day period shall be entitled to enjoy an overnight period with the child on the Wednesday of the other party's seven day period.

The Father's first of such seven day periods shall commence on Sunday, June 23, 2013 at 5:00 P.M., following which, the Mother shall be entitled to exercise her seven day period.

The parties shall alternate and rotate said periods of seven day, until modified by the Court, or unless they reach an informal agreement to deviate from this plan.

IT IS FURTHER ORDERED that Nicholas Schittone shall pay child support in the amount of FOUR HUNDRED SEVENTY THREE DOLLARS AND FIFTY-TWO CENTS (\$473.52) payable one half (1/2) by the 5<sup>th</sup> and one half (1/2) by the 20<sup>th</sup> of each month, commencing July 1, 2013; June 2013 has previously been paid in full.

IT IS FURTHER ORDERED that Dr. Linda Starbird shall conduct a Mental Health Evaluation on the children, the parties, and any other person(s) she may deem necessary. Nicholas Schittone shall pay for himself and Luke Schittone; Brooke Schittone shall pay for herself and Dominic Schittone.

IT IS ORDERED that Nicholas Schittone is awarded the exclusive use of the former family home with Brooke Schittone reserving her right to the fair market rental value.

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IT IS FURTHER ORDERED that Brooke Schittone shall have exclusive use of the Toyota Camery and Nicholas Schittone shall have exclusive use of his truck.

IT IS FURTHER ORDERED that the parties are each responsible for the bills for the moveables in their possession, and each reserve their right of reimbursement.

IT IS FURTHER ORDERED Brooke Schittone shall retrieve her personal belongings on June 23, 2013 and some items belonging to the minor children.

IT IS FURTHER ORDERED that costs of court associated with this matter shall be relegated to further proceedings.

JUDGMENT READ, AND SIGNED in Lafayette, Lafayette Parish, Louisiana, this 17 day of July, 2013.

  
JUDGE DAVID A. BLANCHET *Susan Threll*  
DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT

APPROVED AS TO FORM AND CONTENT

  
NICHOLAS SCHITTONE

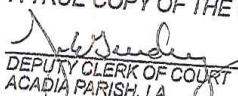
\_\_\_\_\_  
BROOKE SCHITTONE

  
GAY LYNN BABIN, #26180  
2701 Johnston Street, Suite 301  
Lafayette, LA 70503  
(337) 233-9506  
*Attorney for Nicholas Schittone*

\_\_\_\_\_  
LAURA T. ROUGEAU, #31310  
140 N. Second Street  
Eunice, LA 70535  
(337) 457-5999  
*Attorney for Brooke Schittone*

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ACADIA PARISH, LA.

# SHARED OBLIGATION WORKSHEET

Case: 15th IDC Parish: Acadia Louisiana  
 Case Number: 201310403 Div/Ctr: M  
 Petitioner: BROOKE SCHITONE and Respondent: Nicholas Schitone  
 Children: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Children: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

DOMINIC SCHITONE 7/22/2004  
LUKE JOSEPH SCHITONE 1/25/2011

Number of Children	A. Mother	B. Father	C. Combined
1. Monthly Gross Income	\$2,560.00	\$4,848.22	
a. Preexisting child support payment.	\$0.00	\$0.00	
b. Preexisting spousal support payment.	\$0.00	\$0.00	
2. Monthly Adjusted Gross Income	\$2,560.00	\$4,848.22	
3. Combined Monthly Adjusted Gross Income			\$7,408.22
4. Percentage Share of Income	34.56 %	65.44 %	
5. Basic Child Support Obligation			\$1,482.99
6. Shared Custody Basic Obligation			\$2,224.48
7. Each Party's Theoretical Child Support	\$768.78	\$1,455.70	
8. Percentage With Each Party	50.00 %	50.00 %	
9. Basic Child Support for Time With Other Party	\$384.39	\$727.85	
a. Net Child Care Cost			\$292.00
b. Child's health insurance premium cost			\$330.12
c. Extraordinary medical expenses			\$0.00
d. Extraordinary expenses			\$0.00
e. Optional: Minus extraordinary adjustments			\$0.00
10. Total Expenses/Extraordinary Adjustments			\$622.12
11. Each Party's Proportionate Share	\$215.00	\$407.12	
12. Proportionate Share of Direct Payments	\$119.25	\$181.31	
13. Each Party's Child Support Obligation	\$480.14	\$953.66	
14. Guideline Child Support Order	\$0.00	\$473.52	
15. Recommended Child Support Order	\$0.00	\$473.52	

Comments: \_\_\_\_\_  
 Date: 6/18/2013  
 Prepared By: \_\_\_\_\_

LouisianaGuidelines.com

FILED July 17 2013  
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 DEPUTY CLERK OF COURT  
 ACADIA PARISH, LA

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BROOKE RACHAL SCHITTONE

CIVIL DOCKET NO. 201310403-M

VERSUS

15<sup>TH</sup> JUDICIAL DISTRICT COURT

NICHOLAS JOHN SCHITTONE

ACADIA PARISH, LOUISIANA

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PETITION FOR DIVORCE PURSUANT  
TO LA. C. C. ART. 102 AND FOR CHILD CUSTODY

The Petition of BROOKE RACHAL SCHITTONE, a person of the full age of majority and domiciled in the Parish of Acadia, State of Louisiana, respectfully represents that:

1.

This Court has subject matter jurisdiction over the status of the divorce in this matter pursuant to La Code Civil Procedure Ann Art. 10(A)(7) because both parties are domiciled in this state.

2.

Venue is proper in this court pursuant to La Code Civil Procedure Ann Art. 3941 because both parties are domiciled in Acadia Parish, and Acadia Parish was the last matrimonial domicile of the parties.

3.

Male Defendant herein is Petitioner's husband, NICHOLAS JOHN SCHITTONE, a person of the full age of majority and domiciled in the parish of Acadia, State of Louisiana.

4.

Petitioner and Defendant were married on October 13, 2005, in Nassau, Bahamas, and they last resided together as wife and husband at 261 Bulldog Ln. Iota, Louisiana 70543, Acadia Parish, Louisiana. This marriage was not a covenant marriage. Neither party is on full-time active duty in the military.

5.

Two (2) children were born of the marriage between Petitioner and Defendant, namely: Dominic John Schittone, born on July 20, 2004 and Luke Joseph Schittone, born on January 25, 2011.

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6.

Petitioner and Defendant physically separated on December 26, 2012. BROOKE RACHAL SCHITTONE and NICHOLAS JOHN SCHITTONE have lived separate and apart continuously since then.

7.

It is in the best interest of the minor children of the marriage that joint custody be awarded to Petitioner, BROOKE RACHAL SCHITTONE, and Defendant, NICHOLAS JOHN SCHITTONE, with Petitioner being designated primary domiciliary parent and with Defendant having reasonable access and visitation.

8.

For those periods of time when the parents are unable to exercise custody due to work or any other special circumstances, then the parent who is unavailable to exercise custody shall give the other parent the first option to care for the children beginning from the time of unavailability through the end of the period of unavailability. Neither parent shall utilize daycare or utilize third parties, including grandparents and other family members, without first providing the first option to the other parent.

9.

Petitioner desires and is entitled to be awarded from Defendant child support for the maintenance and support of the minor children in a reasonable sum to be fixed by this Honorable Court in accordance with the provisions of LSA-R.S. 9:315, et seq.

10.

Petitioner is entitled to the state and federal tax dependency deduction each year.

11.

Petitioner further desires that Defendant be responsible for paying one-half (1/2) of all fees for extra-curricular activities incurred for the minor children.

12.

Petitioner does not have sufficient income for her maintenance during the pendency of these proceedings and is, therefore, entitled to receive interim spousal support and, in due course,

final spousal support in an amount to be set by this Court, because, concerning the latter, Petitioner has been free from fault and is in need.

13.

Petitioner desires that after the passage of three hundred sixty five days from the date of service of the petition on the Defendant, and provided that Petitioner and Defendant continue to live separate and apart continuously without reconciliation, Petitioner be granted a judgment of divorce by Rule to Show Cause, pursuant to La. Civ. Code Art. 103.1.

14.

Pursuant to the provisions of La. R.S. 9:2801, et seq., Petitioner desires and is entitled to an order of partition from this court, partitioning the community of acquets and gains presently existing between the parties. Petitioner is unable to file a detailed descriptive list at this time, as required by La. R.S. 9:2801, but same will be filed upon completion of discovery.

15.

It is in the best interest of the minor children of the marriage, and the economic status of the spouse is such, that the use and occupancy of the family residence and contents of the family residence located at 261 Bulldog Ln. Iota, Louisiana 70543, be awarded Petitioner and that Petitioner be awarded the use of personal belongings, and the use of a community vehicle, namely the 2012 Toyota Camry, should be awarded to Petitioner, pending the partition of the community property.

16.

Petitioner requests that the Court order an award of fair rental value payable to Petitioner for Defendant's use of the family home, pursuant to La. R.S. 9:374 should the use and occupancy of the family residence and contents of the family residence be awarded to Defendant.

17.

The conduct of the Defendant alleged hereinabove has given rise to these proceedings and has therefore necessitated that Petitioner retain the services of Laura T. Rougeau, Attorney at Law (A Limited Liability Company), to institute and prosecute these proceedings on Petitioner's behalf. Petitioner, therefore, seeks and is entitled to a judgment herein against the Defendant, NICHOLAS JOHN SCHITONE, in *his* capacity as a partner of the community of acquets and

gains existing between the parties hereto, for reasonable attorney fees incurred and to be incurred on Petitioner's behalf, plus all costs and expenses incurred through Petitioner's attorney, and all taxable costs of these proceedings.

18.

Petitioner fears that Defendant may dispose of, alienate, or otherwise encumber assets belonging to the community of acquets and gains between Petitioner and Defendant. Since irreparable injury, loss, or damage may otherwise result to Petitioner, and in order to fully protect Petitioner's interest in and to all of the assets belonging to the community, it is necessary that a temporary restraining order issue, immediately and without bond, according to law, enjoining the Defendant, his agents or assigns, from disposing of, alienating, or otherwise encumbering any of the assets of the community of acquets and gains existing between Petitioner and Defendant. In due course, a preliminary injunction and permanent injunction should issue to the same effect.

19.

Petitioner feels that, during the pendency of this action, Defendant may attempt to harass and/or abuse Petitioner either physically or mentally and requests this Honorable Court issue Temporary Restraining Order, without bond, prohibiting Defendant from harassing and/or abusing Petitioner physically or mentally. In due course, a preliminary injunction and permanent injunction should issue to the same effect.

20.

Petitioner further reserves her rights to bring any other actions arising from the matrimonial regime and/or for other relief based on any cause of action or issue arising out of the marriage of the parties.

I. **WHEREFORE**, Petitioner prays that:

- a. The Defendant, NICHOLAS JOHN SCHITONE, be served with a citation and copy of the Petition in these proceedings and be ordered to answer same;
- b. A temporary restraining order issue, immediately and without bond, according to law, and in due course a preliminary and permanent injunction issue to the same effect, directed to the Defendant, restraining, enjoining and

prohibiting the Defendant, Defendant's agents or assigns, from disposing of, alienating, or otherwise encumbering any of the assets of the community of acquets and gains existing between Petitioner and Defendant; and

c. An order of partition be issued from this court, partitioning the community of acquets and gains presently existing between the parties.

d. A temporary restraining order should not issue herein, immediately, and without bond, according to law, and in due course a preliminary and permanent injunction issue to the same effect, directed to the Defendant, prohibiting Defendant from harassing and/or abusing Petitioner physically or mentally.

**II. WHEREFORE,** Petitioner prays that Defendant show cause:

a. why joint custody of the minor children should not be awarded to Petitioner and Defendant with Petitioner being designated primary domiciliary parent and with Defendant having reasonable access and visitation;

b. why Petitioner should not be given the first option to care for the minor children, Dominic John Schittone and Luke Joseph Schittone, should Defendant be unable to exercise physical custody due to work or other special circumstances;

c. why Petitioner should not be awarded from Defendant child support for the maintenance and support of the minor children in a reasonable sum to be fixed by this Honorable Court in accordance with the provisions of LSA-R.S. 9:315, et seq;

d. why Petitioner should not be awarded the state and federal tax dependency deductions each year;

e. why Petitioner should not be awarded interim spousal support for her maintenance during the pendency of these proceedings and, in due course, final spousal support in an amount to be set by this Honorable Court;

f. why the use and occupancy of the family residence and contents of the family residence located at 261 Bulldog Ln. Iota, Louisiana 70543 should not be awarded Petitioner, why Petitioner should not be awarded the use of personal



belongings, and why the use and occupancy of the 2012 Toyota Camry should not be awarded to Plaintiff pending the partition of the community property;

g. alternatively, if use is not granted, then why Petitioner should not be awarded of fair rental value payable to Petitioner for Defendant's use of the family home and contents of the family home, pending a partition of the community property;

h. why Petitioner should not be awarded reasonable attorney's fees against the Defendant, in his capacity as a partner of the community of acquets and gains existing between them, plus all expenses and costs incurred by Petitioner's attorney, in her behalf and for all taxable costs of these proceedings;

i. why the preliminary injunctions and permanent injunctions requested herein should not be granted; and that the court authorizes the use of affidavits, in addition to other methods of proof; and

j. why all costs in these proceedings should not be cast to Defendant,  
NICHOLAS JOHN SCHITTONE.


**III. WHEREFORE, Petitioner prays further that:**

a. After due proceedings are had, Judgment to be granted in favor of Petitioner, BROOKE RACHAL SCHITTONE, and against Defendant, NICHOLAS JOHN SCHITTONE, decreeing a divorce *a vinculo matrimonii* forever dissolving the bonds of matrimony existing between them and

b. Petitioner be awarded all general and equitable relief and all orders necessary under the circumstances.

RESPECTFULLY SUBMITTED:

LAURA T. ROUGEAU,  
ATTORNEY AT LAW, L.L.C.

BY:   
LAURA T. ROUGEAU  
BAR ROLL NO. 31310  
P. O. BOX 260  
140 N. 2<sup>ND</sup> STREET  
EUNICE, LA 70535  
TELEPHONE: (337) 457-5999  
FACSIMILE: (337) 457-0011  
ATTORNEY FOR PETITIONER

PLEASE SERVE:

NICHOLAS JOHN SCHITONE  
261 BULLDOG LN.  
IOTA, LOUISIANA 70543

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FILED April 11, 2013  
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BROOKE RACHAL SCHITONE

CIVIL DOCKET NO. 201310403-M

VERSUS

15<sup>TH</sup> JUDICIAL DISTRICT COURT

NICHOLAS JOHN SCHITONE

ACADIA PARISH, LOUISIANA

\*\*\*\*\*

ORDER

Considering the above and foregoing:

IT IS ORDERED that a temporary restraining order issue herein, without bond, directed to Defendant, NICHOLAS JOHN SCHITONE, restraining, enjoining and prohibiting NICHOLAS JOHN SCHITONE from disposing of, encumbering or concealing any or all of the property owned in community by Petitioner and Defendant until further order of this Court.

IT IS ORDERED that a temporary restraining order should not issue herein, immediately, and without bond, according to law, and in due course a preliminary and permanent injunction issue to the same effect, directed to the Defendant, prohibiting Defendant from harassing and/or abusing Petitioner physically or mentally.

IT IS FURTHER ORDERED that NICHOLAS JOHN SCHITONE appear at the office of the Honorable Hearing Officer, Luquette, the 12 day of June, 20 13, at 11 o'clock A.m. to show cause:

- a. why joint custody of the minor children should not be awarded to Petitioner and Defendant with Petitioner being designated primary domiciliary parent and with Defendant having reasonable access and visitation;
- b. why Petitioner should not be given the first option to care for the minor children, Dominic John Schittone and Luke Joseph Schittone, should Defendant be unable to exercise physical custody due to work or other special circumstances;
- c. why Petitioner should not be awarded from Defendant child support for the maintenance and support of the minor children in a reasonable sum to be fixed by this Honorable Court in accordance with the provisions of LSA-R.S. 9:315, et seq;
- d. why Petitioner should not be awarded the state and federal tax dependency deductions each year;

- e. why Petitioner should not be awarded interim spousal support for her maintenance during the pendency of these proceedings and, in due course, final spousal support in an amount to be set by this Honorable Court;
  - f. why the use and occupancy of the family residence and contents of the family residence located at 261 Bulldog Ln. Iota, Louisiana 70543, should not be awarded Petitioner, why Petitioner should not be awarded the use of personal belongings, and why the use and occupancy of the 2012 Toyota Camry should not be awarded to Plaintiff pending the partition of the community property;
  - g. why Petitioner should not be awarded of fair rental value payable to Petitioner for Defendant's use of the family home and contents of the family home, pending a partition of the community property;
  - h. why Petitioner should not be awarded reasonable attorney's fees against the Defendant, in his capacity as a partner of the community of acquets and gains existing between them, plus all expenses and costs incurred by Petitioner's attorney, in her behalf and for all taxable costs of these proceedings;
  - i. why the preliminary injunctions and permanent injunctions requested herein should not be granted; and that the court authorizes the use of affidavits, in addition to other methods of proof; and
  - j. why all costs in these proceedings should not be cast to Defendant,
- NICHOLAS JOHN SCHITONE.

**IT IS FURTHER ORDERED** that in the event that all issues are not resolved at the Intake Conference, Defendant shall appear in Open Court on the 19 day of June, 20 13, at 10:00 o'clock A.m., in order to show cause:

- a. why joint custody of the minor children should not be awarded to Petitioner and Defendant with Petitioner being designated primary domiciliary parent and with Defendant having reasonable access and visitation;

- b. why Petitioner should not be given the first option to care for the minor children, Dominic John Schittone and Luke Joseph Schittone, should Defendant be unable to exercise physical custody due to work or other special circumstances;
- c. why Petitioner should not be awarded from Defendant child support for the maintenance and support of the minor children in a reasonable sum to be fixed by this Honorable Court in accordance with the provisions of LSA-R.S. 9:315, et seq;
- d. why Petitioner should not be awarded the state and federal tax dependency deductions each year;
- e. why Petitioner should not be awarded interim spousal support for her maintenance during the pendency of these proceedings and, in due course, final spousal support in an amount to be set by this Honorable Court;
- f. why the use and occupancy of the family residence and contents of the family residence located at 261 Bulldog Ln. Iota, Louisiana 70543, Louisiana 70543, should not be awarded to Petitioner, why Petitioner should not be awarded the use of personal belongings, and why the use and occupancy of the 2012 Toyota Camry should not be awarded to Plaintiff pending the partition of the community property;
- g. why Petitioner should not be awarded of fair rental value payable to Petitioner for Defendant's use of the family home and contents of the family home, pending a partition of the community property;
- h. why Petitioner should not be awarded reasonable attorney's fees against the Defendant, in his capacity as a partner of the community of acquets and gains existing between them, plus all expenses and costs incurred by Petitioner's attorney, in her behalf and for all taxable costs of these proceedings;
- i. why the preliminary injunctions and permanent injunctions requested herein should not be granted; and that the court authorizes the use of affidavits, in addition to other methods of proof; and



j. why all costs in these proceedings should not be cast to Defendant,  
NICHOLAS JOHN SCHITONE.

Crowley, Louisiana, this 11<sup>th</sup> day of April, 2013.

  
\_\_\_\_\_  
JUDGE

PLEASE SERVE:

NICHOLAS JOHN SCHITONE  
261 BULLDOG LN.  
IOTA, LOUISIANA 70543

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FILED April 11, 2013  
Paula Clay  
DY, CLERK OF COURT  
ACADIA PARISH, LA

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Wednesday, July 17, 2013

COURT MET THIS DATE PURSUANT TO ADJOURNMENT WITH THE HONORABLE SUSAN THEALL, JUDGE PRESIDING; CATHY KILLINGSWORTH, COURT REPORTER; MARK MYERS AND JE FOREMAN, BAILIFF/DEPUTY SHERIFF; JEVON E GUIDRY, MINUTE CLERK /DEPUTY CLERK OF COURT; ALL IN ATTENDANCE.

201310403            BROOKE SCHITONE  
                              VS  
                              NICHOLAS SCHITONE

CONTEMPT OF COURT AND WHY APPROPRIATE SANCTIONS SHOULD NOT BE IMPOSED.

REGULARLY SCHEDULED THIS DATE IS NOW CALLED FOR HEARING.

THE RECORD WILL REFLECT THAT THE HALL WAS SOUNDED FOR ATTORNEY LAURA ROUGEAU AND BROOKE SCHITONE, PETITIONER, AND NO APPEARANCE HAS BEEN MADE BY EITHER PARTY.

BY THE COURT: THE RECORD WILL REFLECT THAT ATTORNEY GAY LYNN BABIN SUBMITTED TO THE COURT RULE 9.5 CERTIFICATE OF CIRCULATION, RULE 9.4 CERTIFICATION, AND INTERIM ORDER SIGNED BY HER AND HER CLIENT, NICHOLAS SCHITONE. ATTACHED TO ORDER, SHARED OBLIGATION WORKSHEET, EXHIBIT A - CORRESPONDENCE TO ATTORNEY LAURA ROUGEAU, AND EXHIBIT B - TRANSCRIPT FROM COURT ON JUNE 19, 2013. THE COURT AFTER REVIEWING THE TRANSCRIPT, ORDER AND ATTACHED DOCUMENTS HEREBY GRANTING AND SIGNING IN OPEN COURT INTERIM ORDER.

A TRUE AND CORRECT EXTRACT OF THE MINUTES OF COURT OF DATE.

\_\_\_\_\_  
DEPUTY CLERK OF COURT  
15TH JUDICIAL DISTRICT  
ACADIA PARISH, LOUISIANA



BROOKE SCHITTONE

15<sup>TH</sup> JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO. 2013-10403 M

NICHOLAS SCHITTONE

PARISH OF ACADIA, LOUISIANA

\*\*\*\*\*

RULE 9.5 CERTIFICATE OF CIRCULATION

I certify that I am counsel of record for one of the parties in the captioned matter, that I circulated a proposed Judgment to all parties or their counsel in this matter and allowed at least three working days for comment.

Party which the undersigned Counsel represents: Defendant, Nicholas Schittone

Date proposed judgment was Circulated: July 1, 2013

Method of circulation: Via Facsimile

Opposition received: None

2013 JUL 17 P 1:09  
6/17/13

In Lafayette, Louisiana, this 16<sup>th</sup> day of July, 2013.

*Gay Lynn Babin*

GAY LYNN BABIN  
Attorney at Law  
LA Bar Roll #26180  
2701 Johnston Street, Suite 301, 70503  
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(337) 233-9506 (O)  
(337) 233-9507 (F)

Attorney for ~~Taylor Wilson~~

FILED July 17 2013  
*N. J. Sunday*  
BY CLERK OF COURT  
ACADIA PARISH, LA



BROOKE SCHITONE

15<sup>TH</sup> JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO. 2013-10403 M

NICHOLAS SCHITONE

PARISH OF ACADIA, LOUISIANA

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RULE 9.5 CERTIFICATION

Pursuant to Louisiana Supreme Court Rule 9.5, I hereby certify that I have forwarded the above Consent Judgment to opposing counsel more than three (3) days before the date of this certification.

       The Consent Judgment has been approved as to form by opposing counsel

  X   No Objection has been received from opposing counsel as to form of the Consent Judgment herein above stated.

       Objection has been received from opposing counsel, which is explained in cover letter.

Respectfully submitted by:

  
\_\_\_\_\_  
GAY LYNN BABIN

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Attorney for Nicholas Schittone

FILED July 17 2013  
  
\_\_\_\_\_  
CLERK OF COURT  
ACADIA PARISH, LA

2013 JUL 17 PM 1:09



Lynn Babin-Attorney at Law, L.L.C.  
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**FAX COVER SHEET**

**DATE:** July 1, 2013

**TO:** Laura Rougeau *VIA FACSIMILE ONLY 337-457-0011*

**FROM:** Gay Lynn Babin/dz

**RE:** BROOKE SCHITONE vs. NICHOLAS SCHITONE  
DOCKET NO.: 2013-10403 M  
PARISH OF ACADIA, LOUISIANA

**MESSAGE**

Following please find the Interim Order prepared in the captioned matter. Should same meet with your approval, kindly acknowledge below and return via facsimile. The original Judgment will then be forward for obtaining signatures.

2013 JUL 17 10:09  
ACADIA PARISH, LA

**CONFIDENTIALITY NOTICE**

The information contained in this facsimile transmission is confidential information from the law office of Gay Lynn Babin, and is legally protected by attorney-client privilege. This information is intended only for the individual or company named above. If the recipient of this facsimile is not the person to whom it was sent, this facsimile should not be distributed, copied or given to any other person or entity. Distribution or copying of this transmission is prohibited. If you have received this transmission in error, please notify our office immediately so we may arrange to retrieve this transmission at no cost to you.

FILED July 17 2013  
*J. B. Babin*  
BY CLERK OF COURT  
ACADIA PARISH, LA



TRANSMISSION VERIFICATION REPORT

TIME : 07/01/2013 05:00PM  
NAME :  
FAX :  
SER.# : U62663A1F431797

DATE, TIME	07/01 05:00PM
FAX NO./NAME	13374570011
DURATION	00:00:42
PAGE(S)	04
RESULT	OK
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FIFTEENTH JUDICIAL DISTRICT COURT  
IN AND FOR THE PARISH OF ACADIA  
STATE OF LOUISIANA

BROOKE SCHITTONE

VERSUS

DOCKET NO. 201310403 M

NICHOLAS SCHITTONE

Representing Brooke Schittone:

Ms. Laura T. Rougeau  
Attorney at Law  
140 North 2nd Street  
Eunice, Louisiana 70535  
(337) 457-5999

Representing Nicholas Schittone:

Ms. Gay Lynn Babin  
Attorney at Law  
2701 Johnston Street, Suite 301  
Lafayette, Louisiana 70503  
(337) 233-9506

Minute Clerk: Ms. Michelle Sarver

STIPULATION

WEDNESDAY, JUNE 19, 2013

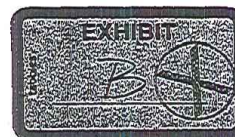
HONORABLE SUSAN L. THEALL, JUDGE PRESIDING

\*\*\*\*\*

Catherine B. Killingsworth, CCR, CVR-CM  
Post Office Box 51714  
Lafayette, Louisiana 70505  
(337) 261-5126

2013 JUN 19 10:09

FILED July 17 2013  
*[Signature]*  
BY CLERK OF COURT  
ACADIA PARISH, LA



1 On this date, this matter came before Judge Theall,  
2 in court. The parties were sworn and the following  
3 stipulation was entered into the record.

4 \* \* \* \* \*

5 MS. BABIN:

6 The matter before the Court, Your Honor, is Brooke  
7 Schittone versus Nicholas Schittone.

8 YOUR HONOR:

9 Can I get one of the parties to please pronounce the  
10 name, so I can get it right.

11 MR. SCHITSTONE:

12 Schittone.

13 YOUR HONOR:

14 That's easy enough. I have it right.

15 MS. BABIN:

16 Docket Number 201310403 M; Gay Babin, representing  
17 Nicholas Schittone.

18 MS. ROUGEAU:

19 And Laura Rougeau, representing Brooke Schittone.

20 MS. BABIN:

21 Your Honor, the matter before the Court is pursuant  
22 to a 102 divorce, custody, visitation, child support, and  
23 other incidental matters between the parties. After of  
24 course consulting with Your Honor, we have managed to  
25 come up with a few stipulations that I'd like to put into  
26 the record at this time. We do need help on one issue  
27 and I'll reserve that for the end.

28 YOUR HONOR:

29 Okay.

30 MS. BABIN:

31 We're going to go ahead and grant Mr. Schittone the  
32 exclusive use of the family residence, while at the same

\* \* \* \* \*

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1 time reserving Mrs. Schittone's right for the fair market  
2 rental value.  
3 YOUR HONOR:  
4 Pending the community property partition, yes.  
5 MS. BABIN:  
6 Pending the partition on the community property, yes,  
7 ma'am.  
8 MS. ROUGEAU:  
9 Yes, Your Honor. We agree to that as well.  
10 MS. BABIN:  
11 Okay. And we're also going to keep in place a  
12 Restraining Order -- a mutual Restraining Order on the  
13 community property.  
14 MS. ROUGEAU:  
15 We agree to that as well, Judge.  
16 YOUR HONOR:  
17 Okay, great.  
18 MS. BABIN:  
19 And we're going to go ahead and give exclusive use of  
20 the Toyota Camry to Brooke --  
21 MS. ROUGEAU:  
22 Right.  
23 MS. BABIN:  
24 -- and we're going to give the exclusive use of Mr.  
25 Schittone's truck, with both of them being responsible to  
26 pay any expenses in reference to his or her vehicles. It  
27 means insurance, car notes --  
28 YOUR HONOR:  
29 So if there are car notes, insurance, those types of  
30 things.  
31 MS. BABIN:  
32 Yes, ma'am. And of course, reserving any rights, if

\* \* \* \* \*

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1 any, for any reimbursement claims when it comes to the  
2 community property partition.

3 MS. ROUGEAU:

4 We're in agreement with that as well, Judge.

5 YOUR HONOR:

6 Okay, good.

7 MS. BABIN:

8 And Brooke is going to come to the family home on  
9 Sunday, June 23rd, at 10:00 a.m, as per the Hearing  
10 Officer recommendation, to retrieve personal items and  
11 also some items for the children, as far as their play  
12 toys and so forth and so on.

13 YOUR HONOR:

14 Let me stop you. Is there any dispute over the items  
15 that she's going to take? When you say "personal items,"  
16 I don't want her to get there on June 23rd and not be  
17 able to leave with these things. So we're talking her  
18 clothing, her jewelry, any of those kind of personal  
19 items?

20 MS. BABIN:

21 Yes, just her personal items. And if I'm not  
22 mistaken, Mr. Luquette was quite clear in the Hearing  
23 Officer recommendation of the things that would be taken;  
24 no community things, because he does have exclusive use  
25 of the community moveables. So it would be -- and maybe  
26 it might be best --

27 MS. ROUGEAU:

28 Some things for the children as well, though, because  
29 she doesn't have -- like I think there's a crib involved  
30 and that kind of stuff.

31 YOUR HONOR:

32 That's what I was going to ask. Where are you

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1 living?  
2 MS. SCHITONE:  
3 My mom's.  
4 MS. ROUGEAU:  
5 There are certain things that would help her with  
6 caring for the kids as well.  
7 YOUR HONOR:  
8 Like what?  
9 MS. SCHITONE:  
10 The clothes, toys, a bed perhaps.  
11 YOUR HONOR:  
12 How many beds in the house that you live in?  
13 MS. BABIN:  
14 There's three.  
15 YOUR HONOR:  
16 And how many kids? Two?  
17 MS. BABIN:  
18 Two.  
19 MS. ROUGEAU:  
20 Two.  
21 YOUR HONOR:  
22 And Grandma, you don't have enough beds for the kids,  
23 or is it --  
24 FEMALE IDENTIFIED AS "GRANDMA":  
25 I do, but her hope is to get her own place.  
26 YOUR HONOR:  
27 To be able to move.  
28 MS. ROUGEAU:  
29 And to be able to use some of the furniture.  
30 MS. BABIN:  
31 And I think she's been staying at a friend's  
32 house.

\* \* \* \* \*  
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1 FEMALE IDENTIFIED AS "GRANDMA":  
2 No. She stayed with me the entire time.  
3 MS. ROUGEAU:  
4 Not with -- when the children are there.  
5 YOUR HONOR:  
6 All right. So the problem is that Dad has a  
7 completely set-up house --  
8 MS. ROUGEAU:  
9 Right.  
10 YOUR HONOR:  
11 -- Mom doesn't.  
12 MS. ROUGEAU:  
13 Right.  
14 YOUR HONOR:  
15 I will tell you that, as long as she's living at  
16 Grandma's, she doesn't really need the bed right now. So  
17 let's look at this custody evaluation and, pending what  
18 happens with custody, then we can try to figure out what  
19 we're going to be able to do.  
20 MS. BABIN:  
21 Well, I think -- community property -- they do have a  
22 home. But she actually left with the children in  
23 December, so she's been gone awhile.  
24 MS. ROUGEAU:  
25 But the sooner -- she wants to be able to establish a  
26 home as soon as possible, so she needs some of those  
27 things.  
28 YOUR HONOR:  
29 I'll ask you -- I can't order. But I will ask y'all  
30 to work as quickly as you can towards resolving the  
31 community because, as you both know, it takes parents who  
32 are divorcing awhile to move on with their lives,

\*\*\*\*\*  
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particularly if the financial issues remain tied up.

And I know that, if you've been gone since December, that you need to be able to make plans so that you can get a space for you and the kids. So I'm simply going to ask the lawyers --

MS. BABIN:

Yes, Your Honor.

YOUR HONOR:

-- and I know it's hard to multitask, when you're looking at custody issues and community issues. You know, maybe, if you can at least start a descriptive list of community property -- and you might even think about mediation as a quicker way to resolve the community. I'm just saying; just a suggestion.

But I want Dad to be cognizant of the fact that Mom is going to need at some point to be able to get a house and a place for her and the kids and she's going to need some stuff.

MR. SCHITONE:

Yes, ma'am.

YOUR HONOR:

Whether it's the stuff that y'all bought together when you were in the home or whether she's got enough money to go buy new stuff, the kids are going to need beds. They can't live with Grandma forever, okay. So sorry for interrupting you, so --

MS. BABIN:

I'll get on -- I think we can get on -- there's not a lot -- not too much property.

YOUR HONOR:

Okay, good, good.

\*\*\*\*\*  
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MS. BABIN:

So I think that can be done.

YOUR HONOR:

So I apologize for interrupting. I just needed to make that point. What else?

MS. BABIN:

The custodial periods -- this is going to be an Interim Order, because the parties are going to, as soon as possible, schedule a custody evaluation with Linda Starbird. I know that your secretary, Stephanie, has her number. I've directed my office to call and get the number.

YOUR HONOR:

I was going to look for it, but that's exactly it.

MS. BABIN:

And she's going to contact your office. So we can get that going as soon as possible. We're also going to have temporary custodial periods which are going to be -- they have two children together. They have Dominic and Luke. Dominic -- I think Dominic just turned nine.

MR. SCHITONE:

Turning nine next month.

MS. BABIN:

Nine next month. And then Luke is two and a half. And so commencing on 6/23 -- that's this Sunday at 5:00 -- we'll start Mr. Schittone's seven-day custodial period with Dominic. And they'll do the exchange every Sunday, and they'll alternate that at 5:00. And I think they've been meeting at the Dollar General Store in Iota.

MR. SCHITONE:

Yes, ma'am.

\*\*\*\*\*

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1 MS. BABIN:  
2 Okay. And they'll continue to go ahead and do that.  
3 And --  
4 YOUR HONOR:  
5 Stop one second. What city do you live in, sir?  
6 MR. SCHITONE:  
7 Iota.  
8 YOUR HONOR:  
9 And where do you live?  
10 MS. SCHITONE:  
11 Iota.  
12 YOUR HONOR:  
13 Iota, okay. Why can't y'all go to each other's  
14 houses?  
15 MS. BABIN:  
16 I don't know. I just asked them where they've been  
17 meeting.  
18 YOUR HONOR:  
19 Well, and I -- far be it for me to interfere with  
20 your agreement. Let me just tell you that, as a judge,  
21 children don't really understand those kind of odd  
22 things. If they're used to living with you and your mom  
23 at your mom's house for right now, why in the world would  
24 y'all have to go meet at a third -- you know, at some  
25 mutual place, a Dollar General? You know, why can't  
26 y'all each go to each other's homes? I just think it  
27 would be better --  
28 MS. BABIN:  
29 He's telling me, they only met there one time, that  
30 they usually meet at the house.  
31 MR. SCHITONE:  
32 We normally do it at the homes, Your Honor. We did

\* \* \* \* \*

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1 it one time this past Sunday.  
2 YOUR HONOR:  
3 All right. So what I'd like for y'all to do, then,  
4 is, for you to start the visitation, you pick up the  
5 children from where they live --  
6 MR. SCHITONE:  
7 Yes, ma'am.  
8 YOUR HONOR:  
9 -- because that's your responsibility to start the  
10 visitation and to do that. At the end of the visitation,  
11 it will be your responsibility to go to the home.  
12 Now, you know, the children have been living away  
13 from the home for six months, so they may -- you know, I  
14 don't know if they feel odd going back to where they grew  
15 up and the place that they call home.  
16 MS. SCHITONE:  
17 They call it Dad's house.  
18 YOUR HONOR:  
19 Okay. And that's good, see, because there's Mom's  
20 house and Dad's house. And the important thing --  
21 because I've got to tell y'all, y'all look like really  
22 nice people. I don't want y'all to mess this up, I  
23 really don't, okay.  
24 If you can focus on what your children need and focus  
25 on, you know, trying to let them know that they are loved  
26 and that -- you know, "Oh, baby, no, let's -- we're going  
27 to go to Dad's." I mean, you have to be a little  
28 enthusiastic. You can't dread it. You can't say, "Oh,  
29 yes, you're going to that son of a gun's house." I mean,  
30 I've heard some stuff, okay.  
31 I want y'all to treat each other with respect,  
32 particularly in front of your children, because, if you

\* \* \* \* \*

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1 don't, your children are going to grow up with problems.  
2 You know, case studies show that parents who can surmount  
3 their intense dislike of each other and who can focus on  
4 their kids have children that can grow up just as if they  
5 had lived in an intact family.

6 And like I said, y'all just look like two nice  
7 people. Y'all can get through this. It's going to be  
8 hard, but you can get through it. And you know, there  
9 are going to be times where you're really, really mad.  
10 Think about your kids, when you get mad, and just say,  
11 "Oh, my God, you know, I can't say this out loud because  
12 it's going to hurt Dominic. I don't want Dominic to hear  
13 it."

14 And Grandma, I don't want you talking about him,  
15 either, okay. The worst thing that you can do is have  
16 your family members talk badly about a child's father or  
17 mother. And that goes for you. I don't see an entourage  
18 here. But I'm just saying, it's just not good for kids.  
19 It's not cool. It's not grown-up. But more than  
20 anything, it's not good for your children.

21 So please, you know, show the respect that each of  
22 you deserve, as the parent of these children. And if you  
23 put that first and if you really think about the beauty  
24 and the joy that your kids have brought you, I know you  
25 don't want to hurt them. I know that you want them to  
26 grow up healthy and strong.

27 And you just have to remember, when there are those  
28 points that you just are mad to distraction, think about  
29 your kids and do the right thing. That's all I ask.  
30 Don't get focused or worried if the other parent is not  
31 doing the right thing.

32 When I was a lawyer, I used to have clients say, "I

\* \* \* \* \*

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1 am so mad at you. I'm so tired of doing the right thing.  
2 He doesn't do the right thing," or, "She doesn't do the  
3 right thing. And you always make me do the right thing."

4 So I'm telling you, do the right thing, regardless of  
5 whether the other parent does or not, because I will  
6 eventually see the parent who does the right thing and  
7 the parent who can allow their child to honor the  
8 relationship with the other parent and who can encourage  
9 the relationship with the other parent.

10 That's one of the factors that I have to consider in  
11 making my decision for custody: the ability of each  
12 parent to encourage and foster the love and respect  
13 between the child and the other parent. That's one of  
14 the biggest factors that we look at. So I really  
15 encourage you both to do that, okay.

16 So I get off on a rant. Did I interrupt your  
17 stipulation? Is there more to go?

18 MS. BABIN:

19 No. We've got some more.

20 YOUR HONOR:

21 Okay, sorry.

22 MS. BABIN:

23 Okay. So we did the -- okay. And the father will  
24 pay half of the cost -- the cost for his portion and one  
25 of the --

26 YOUR HONOR:

27 One of the children.

28 MS. BABIN:

29 -- children, and the mom will pay for her portion and  
30 one of the children. We're also going to -- oh, I want  
31 to get back to Luke, now. Luke is two and a half. And  
32 during our pretrial conference that we had, the choice

\* \* \* \* \*

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1 was given, either seven and seven with the overnight on a  
2 Wednesday on the -- in the middle, for Luke; or a three,  
3 two, two. And if I'm not mistaken, Mrs. Schittone is  
4 wanting the three, two, two, three, for the youngest.  
5 YOUR HONOR:  
6 Okay.  
7 MS. BABIN:  
8 But I've talked to my client and -- he's a state  
9 trooper, and his work schedule is such that it just works  
10 best on the seven and seven with the overnight on the  
11 Wednesday, because some of that time that it's a range --  
12 we're talking like 4:00 in the morning.  
13 So that fluctuation like that, it just works best  
14 with his schedule. But I tell you, my client will do --  
15 agree with whatever Your Honor suggests, as far as Luke  
16 is concerned. I just needed to make the Court aware, I  
17 wasn't aware --  
18 YOUR HONOR:  
19 Of his work schedule.  
20 MS. BABIN:  
21 Well, I knew his work schedule.  
22 YOUR HONOR:  
23 Do you have a calendar outlining his schedule?  
24 MS. ROUGEAU:  
25 The problem, Judge, is he's not used to be away from  
26 his mom that much and she needs --  
27 YOUR HONOR:  
28 I know, I know.  
29 MS. BABIN:  
30 And what I was thinking is really, if we have that  
31 off night, he's only away from his mom for three days,  
32 because you're -- during that seven, we've got the

\* \* \* \* \*  
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1 Wednesday over. It's three days, and it would still be  
2 like the three, two, two, three.  
3 MS. ROUGEAU:  
4 That one night, she's just worried about him just  
5 being away from her for -- it's practically seven days.  
6 It's one night in between, but --  
7 YOUR HONOR:  
8 Well, it's three days, a day with him, three days  
9 with her.  
10 MS. BABIN:  
11 And they both stayed with my client for five, six  
12 days.  
13 MS. ROUGEAU:  
14 Well, that was because at the time there was no set  
15 agreement and he would just take them and not bring them  
16 back.  
17 YOUR HONOR:  
18 Well, let's stop. Let's not make accusations.  
19 MS. ROUGEAU:  
20 Okay.  
21 YOUR HONOR:  
22 So the yellow highlights is when he's working?  
23 MS. BABIN:  
24 Yes. It's when he's working. I tried to -- I even  
25 blew it up for you.  
26 YOUR HONOR:  
27 I know. Thank you. My eyes are so tired.  
28 MS. BABIN:  
29 See, we arranged it, so that his seven days, he's  
30 working 7:00 to 4:00.  
31 YOUR HONOR:  
32 That's what it looks like.

\* \* \* \* \*  
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1 MS. BABIN:  
2 You see?  
3 YOUR HONOR:  
4 Yes.  
5 MS. BABIN:  
6 And then when --  
7 YOUR HONOR:  
8 The other days, it would make it impractical for him  
9 to see the kids. But you see, for that week --  
10 MS. ROUGEAU:  
11 How much, in the three, two, two, three, would he  
12 actually have them during days where he has to leave and  
13 go to work?  
14 YOUR HONOR:  
15 Well, and that's the problem. If it starts on the  
16 10th, if he has the first three days, then she has two,  
17 then he had one, two, three, and that's taking up one of  
18 his long work days. That's the problem.  
19 MS. BABIN:  
20 Yes. And it continues in that manner. So if we  
21 could -- and I can tell you, if we can start it on the --  
22 that basis and if y'all see trouble, I think all you've  
23 got to do is talk to us. And I have --  
24 MS. ROUGEAU:  
25 What do you mean, start on which basis?  
26 YOUR HONOR:  
27 Seven and seven, with a day in between.  
28 MS. BABIN:  
29 On the seven with a day in between.  
30 MS. ROUGEAU:  
31 Well, I mean, I can argue the same thing, you know.  
32 If we started on the three, two, two, three, and then if

\* \* \* \* \*

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1 it presents a problem --  
2 YOUR HONOR:  
3 But this is the problem. I'm looking at the very  
4 first week. And if you do the first three days with him,  
5 then the next two days with her --  
6 MS. ROUGEAU:  
7 Right.  
8 YOUR HONOR:  
9 -- the next three days, one, two, three, with him,  
10 that immediately interferes with his work schedule and  
11 he's working from 4:00 a.m. to 4:00 p.m.  
12 MS. ROUGEAU:  
13 Right.  
14 YOUR HONOR:  
15 Okay. So that's the whole problem.  
16 MS. ROUGEAU:  
17 But then she has them -- she would have them for  
18 these.  
19 YOUR HONOR:  
20 Yes. But then his day again, it interferes with his  
21 work schedule.  
22 MS. ROUGEAU:  
23 One of the issues, too, is that he --  
24 YOUR HONOR:  
25 And I'll tell you, Mom and Dad, I really don't care  
26 what either of you personally want. What I usually try  
27 to do is what's best for the child.  
28 MS. ROUGEAU:  
29 Right.  
30 YOUR HONOR:  
31 But in this particular instance, because of that  
32 crazy work schedule --

\* \* \* \* \*

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1 MS. ROUGEAU:  
2 Well, he does have a flexible work schedule. He  
3 always has. This is what's set for now.  
4 MS. BABIN:  
5 It's actually set all the way through September. And  
6 we're going to be back --  
7 YOUR HONOR:  
8 So this is what I'm going to do. I do not think it  
9 is going to be so harmful to your child to be away from  
10 you for three days. You know, you've said that he's in  
11 fact had the kids for five days at a time, for regardless  
12 of what the reason is.  
13 So I'm going to let him have her [sic] for a week.  
14 But the youngest child is going to visit with Mom on that  
15 full day. So if we start -- when do y'all usually start  
16 your visitation? Do you do Friday, Sunday?  
17 MS. BABIN:  
18 Sunday. We're starting Sunday to Sunday.  
19 YOUR HONOR:  
20 So the child is going to be with him, Sunday --  
21 MS. BABIN:  
22 At 5:00.  
23 YOUR HONOR:  
24 -- Sunday, at 5:00, until Wednesday, at 5:00. But  
25 then the child is going to spend the night with Mom and  
26 will return to Dad the next day at 5:00. So she gets a  
27 24-hour period in between. Follow that?  
28 MS. BABIN:  
29 Oh, yes. And then depending on what time she gets  
30 off --  
31 YOUR HONOR:  
32 And then Thursday, Friday, Saturday, and return to --

\* \* \* \* \*  
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1 MS. BABIN:  
2 Correct.  
3 YOUR HONOR:  
4 -- Mom on Sunday.  
5 MS. ROUGEAU:  
6 Is there any way we can do that with Dominic too,  
7 since you're doing Luke as well? That way, they're  
8 staying together.  
9 YOUR HONOR:  
10 Yes. We can have the kids visit together, like that.  
11 That is correct. That is not a problem.  
12 MS. BABIN:  
13 Okay. So when it's --  
14 YOUR HONOR:  
15 And then vice versa. When it's her week --  
16 MS. BABIN:  
17 So both children will --  
18 MS. ROUGEAU:  
19 Right.  
20 YOUR HONOR:  
21 Rotate.  
22 MS. BABIN:  
23 -- start on that seven. When it's his week, she gets  
24 the Wednesday overnight. When it's her week, he gets the  
25 Wednesday overnight.  
26 YOUR HONOR:  
27 If he's not working.  
28 MS. BABIN:  
29 If he's not working.  
30 YOUR HONOR:  
31 So try to see if you can get your schedule arranged  
32 so that you can take advantage of this.

\* \* \* \* \*  
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1 MS. BABIN:  
2 And I'll clarifier in there, when he's not working.  
3 YOUR HONOR:  
4 And then I will tell you also, Dr. Starbird is a  
5 licensed psychologist. She's new to Louisiana but she's  
6 done custody evaluations for 30 years in Colorado. I've  
7 seen some of her custody reports, and she's also done  
8 some in my Court. She's done an excellent job. She's  
9 very, very thorough. But also, she's fairly quick.  
10 If y'all start it as soon as you can, she can have a  
11 report done in a month, which is really good. So if you  
12 drag your feet, it may take five or six or seven weeks.  
13 But the sooner you start making your appointments and  
14 meeting with her, the better.  
15 Now, I'm going to ask the lawyers, do we need MMPIS,  
16 which drives the cost of the report up? I think -- and  
17 an MMPI is a Minnesota Multiphasic Personality Inventory.  
18 It helps psychologists diagnose mental health issues. I  
19 just don't see any mental health issues.  
20 MS. ROUGEAU:  
21 She has some allegations, Judge, so we would --  
22 YOUR HONOR:  
23 All right. It's going to cost more but let's do it.  
24 That's fine. Go for it. What else do we have?  
25 MS. BABIN:  
26 Can we task her with the cost of the MMPI?  
27 YOUR HONOR:  
28 No, no, no, no. You already agreed to the psych  
29 eval.  
30 MS. BABIN:  
31 He's a trooper, okay. And then in the interim, we've  
32 agreed on -- and I've prepared a --

\* \* \* \* \*  
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1 YOUR HONOR:  
2 Child support guideline.  
3 MS. BABIN:  
4 -- child support worksheet, \$473.52. And he's going  
5 to pay her the whole month of this month, today. He's  
6 going to give you that whole month, today. And then the  
7 rest is we're going to go ahead and defer the cost -- the  
8 court costs.  
9 YOUR HONOR:  
10 Attach this to each other.  
11 MS. ROUGEAU:  
12 I have another stipulation. We ask that no corporal  
13 punishment.  
14 YOUR HONOR:  
15 On either parent.  
16 MS. BABIN:  
17 Yes. We're agreeable for no corporal punishment.  
18 YOUR HONOR:  
19 No corporal punishment by either parent, yes.  
20 Anything else? Who's going to prepare the mental health  
21 Order for Dr. Starbird?  
22 MS. BABIN:  
23 I'll do it. I think I probably have one.  
24 YOUR HONOR:  
25 Well, you probably have it on your computer.  
26 MS. BABIN:  
27 Yes. I do.  
28 YOUR HONOR:  
29 And the reason I suggest you do it is you're in  
30 Lafayette. You can prepare it, bring it to my office. I  
31 can sign it. The quicker that I sign it, the quicker  
32 your parties can get started with their appointments.

\* \* \* \* \*  
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Dr. Starbird, as the Court-appointed expert, won't make appointments until she has a copy of the Court Order.

MS. BABIN:

Okay. I'll get that done.

YOUR HONOR:

Well, that's standard. So that's why -- so call Debbie and say, "Hey, whip it up and bring it to Stephanie."

MS. BABIN:

I already called her. It's already done.

YOUR HONOR:

Anything else?

MS. ROUGEAU:

I think that covers everything.

MS. BABIN:

I think that covers everything.

YOUR HONOR:

Can you state your full name for the record?

MR. SCHITONE:

Nicholas John Schittone.

YOUR HONOR:

You heard the stipulation as read -- oh, y'all didn't get sworn in.

\* \* \* \* \*

(BROOKE NICOLE RACHAL SCHITONE and NICHOLAS JOHN SCHITONE were duly sworn to tell the truth, the whole truth, and nothing but the truth.)

\* \* \* \* \*

YOUR HONOR:

Now, you heard the stipulation as read into the record by the lawyer. Do you agree with those terms?

\* \* \* \* \*

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1 MR. SCHITONE:  
2 Yes, ma'am.  
3 YOUR HONOR:  
4 In other words, did Ms. Babin force you, threaten  
5 you, or coerce you in any way into reaching this  
6 agreement?  
7 MR. SCHITONE:  
8 Oh, no.  
9 MS. BABIN:  
10 Tell the truth.  
11 YOUR HONOR:  
12 Tell the truth; that's right. So do you agree with  
13 these terms?  
14 MR. SCHITONE:  
15 Yes, ma'am.  
16 YOUR HONOR:  
17 All right. So you're going to be bound by these  
18 terms as of today, because what you have done is enter  
19 into an oral contract. And your full name, ma'am?  
20 MS. SCHITONE:  
21 Brooke Nicole Rachal Schittone.  
22 YOUR HONOR:  
23 And you heard the agreement that was read into the  
24 record by Ms. Babin and by your lawyer. Do you agree  
25 with those terms?  
26 MS. SCHITONE:  
27 Yes, ma'am.  
28 YOUR HONOR:  
29 Were you forced, threatened, or coerced in any way  
30 into making this agreement?  
31 MS. SCHITONE:  
32 No, ma'am.

\* \* \* \* \*  
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1 YOUR HONOR:  
2 I'm going to find that you both have willingly and  
3 voluntarily entered into this agreement. I'm going to  
4 order Ms. Babin to produce the Judgment appointing the  
5 mental health professional as well as the Judgment  
6 reflecting today's stipulation.  
7 MS. BABIN:  
8 Okay. I have one more stipulation that I forgot.  
9 And that's we're going to go ahead in the interim, accept  
10 the Hearing Officer's joint custody implementation plan  
11 on the holidays and the general provisions.  
12 And I'll just attach that, except we're going to  
13 modify -- they've got a right of first refusal of four  
14 hours. And all we've agreed to do is modify it, except  
15 when they are at work.  
16 YOUR HONOR:  
17 Okay.  
18 MS. BABIN:  
19 And that's what we've agreed to, correct?  
20 MS. ROUGEAU:  
21 We agree to that.  
22 YOUR HONOR:  
23 That is correct?  
24 MS. SCHITONE:  
25 Yes, ma'am.  
26 YOUR HONOR:  
27 So I'd like for you to prepare the Judgment --  
28 MS. BABIN:  
29 Yes, ma'am.  
30 YOUR HONOR:  
31 -- hopefully -- today is June 19th. You know, if  
32 your clients get started on the mental health evaluation

\*\*\*\*\*  
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1 -- June, July -- by August 1st, we should have a report.  
2 You know, I'm hopeful that, once we get the report, we  
3 can try to do something to resolve this. You don't know  
4 me as well as Ms. Babin, because she's in Lafayette. I'm  
5 available for conferences all the time.

6 MS. ROUGEAU:

7 Okay.

8 YOUR HONOR:

9 I would much rather attempt to help you and your  
10 clients resolve this instead of duking it out in a war in  
11 court. There is nothing more destructive to children  
12 than for their parents to go to court and do battle over  
13 custody.

14 It is traumatic. It is expensive. And it's rarely  
15 productive. And that just tells me that you dislike each  
16 other so much that you can't put your children first and  
17 you're letting a stranger make decisions.

18 I believe that parents are much better equipped to  
19 make decisions regarding their children. If you can't, I  
20 do it. This is what I do all day long. But y'all know  
21 more about your children and about what they need than I  
22 can ever hope to discover in a courtroom.

23 You know, your lawyer will tell you that there are  
24 limits to what can be presented in court. The Rules of  
25 Evidence just won't let me hear everything you know about  
26 the situation. And the rules of reality don't let me get  
27 inside your head, because you know more about your  
28 children, I'm telling, you, than your lawyer will ever  
29 know or that I will ever know.

30 And so once you get this report, if that's what it  
31 takes to try to get y'all on an even keel, I would  
32 encourage you to do what you can to meet with each other.

\* \* \* \* \*

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If you still can't meet with each other, meet through your lawyers, in an attempt to resolve this.

And then again, if you still can't resolve it after that, I'm always available for a conference. If we need to get Dr. Starbird to sit with us in a conference, she's offered to do that.

MS. BABIN:

I've got her number.

YOUR HONOR:

Oh, good, good, good. So I wish you luck. I hope that y'all can have a good summer. I hope that your children can be free spirited and have a fun, child-filled summer, without having to hear Mom and Dad fussing and fighting. So try to keep the fight away from them. Good luck.

MS. ROUGEAU:

Thank you.

MS. BABIN:

Thank you, Judge.

(END OF PROCEEDING)

\*\*\*\*\*  
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STATE OF LOUISIANA  
PARISH OF LAFAYETTE

REPORTER'S CERTIFICATE

I, CATHERINE B. KILLINGSWORTH, Certified Court Reporter in and for the State of Louisiana, hereby certify that the foregoing 25 pages of typewritten matter constitute the testimony that was reported by me, using the stenomask method, of the evidence adduced and proceedings had in the above entitled and numbered cause as taken by me and mechanically recorded on the day and date herein above stated, and was prepared by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

IN WITNESS WHEREOF, I have affixed my official signature this 16th day of July, 2013, at Lafayette, Lafayette Parish, Louisiana.

Catherine B. Killingsworth,  
Louisiana License No. 97086  
Certified Court Reporter  
Certified Verbatim Reporter  
Certificate of Merit

\* \* \* \* \*  
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BROOKE SCHITONE

15<sup>TH</sup> JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO. 2013-10403 M

NICHOLAS SCHITONE

ACADIA PARISH, LOUISIANA

\*\*\*\*\*

**INTERIM ORDER**

This matter came before the Court on June 19, 2013 pursuant to the Objection to Hearing Officer's Recommendations filed on behalf of NICHOLAS SCHITONE. Considering the stipulations of the parties as evidenced by their respective attorneys below, judgment is rendered as follows:

IT IS ORDERED that each parent shall enjoy custodial periods with the minor children on a seven and seven rotating basis. The parties shall share the child's custodial time in an equal manner as follows:

Each party shall be entitled to enjoy a period of seven days with the minor children, from Sunday at 5:00 P.M. until the following Sunday at the same time.

The party who is not enjoying the seven day period shall be entitled to enjoy an overnight period with the child on the Wednesday of the other party's seven day period.

The Father's first of such seven day periods shall commence on Sunday, June 23, 2013 at 5:00 P.M., following which, the Mother shall be entitled to exercise her seven day period.

The parties shall alternate and rotate said periods of seven day, until modified by the Court, or unless they reach an informal agreement to deviate from this plan.

IT IS FURTHER ORDERED that Nicholas Schittone shall pay child support in the amount of FOUR HUNDRED SEVENTY THREE DOLLARS AND FIFTY-TWO CENTS (\$473.52) payable one half (1/2) by the 5<sup>th</sup> and one half (1/2) by the 20<sup>th</sup> of each month, commencing July 1, 2013; June 2013 has previously been paid in full.

IT IS FURTHER ORDERED that Dr. Linda Starbird shall conduct a Mental Health Evaluation on the children, the parties, and any other person(s) she may deem necessary. Nicholas Schittone shall pay for himself and Luke Schittone; Brooke Schittone shall pay for herself and Dominic Schittone.

IT IS ORDERED that Nicholas Schittone is awarded the exclusive use of the former family home with Brooke Schittone reserving her right to the fair market rental value.

601 17 P 1:09  
COURT

IT IS FURTHER ORDERED that Brooke Schittone shall have exclusive use of the Toyota Camery and Nicholas Schittone shall have exclusive use of his truck.

IT IS FURTHER ORDERED that the parties are each responsible for the bills for the moveables in their possession, and each reserve their right of reimbursement.

IT IS FURTHER ORDERED Brooke Schittone shall retrieve her personal belongings on June 23, 2013 and some items belonging to the minor children.

IT IS FURTHER ORDERED that costs of court associated with this matter shall be relegated to further proceedings.

JUDGMENT READ, AND SIGNED in Lafayette, Lafayette Parish, Louisiana, this 17 day of July, 2013.


  
~~JUDGE DAVID A. BLANCHET~~ Susan Treall  
DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT

APPROVED AS TO FORM AND CONTENT


  
\_\_\_\_\_  
NICHOLAS SCHITTONE

\_\_\_\_\_  
BROOKE SCHITTONE

  
\_\_\_\_\_  
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FILED July 17 2013  
  
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DY. CLERK OF COURT  
ACADIA PARISH, LA



# SHARED OBLIGATION WORKSHEET

Court: 15th JDC Parish: Acadia Louisiana  
 Case Number: 201310403 Div/Ctr: M  
 Petitioner: BROOKE SCHITONE and Respondent: Nicholas Schitone

Children Date of Birth Children Date of Birth  
DOMINIC Schitone 7/20/2004  
LUKE Joseph Schitone 1/35/2011

Number of Children	A. Mother	B. Father	C. Combined
2			
1. Monthly Gross Income	\$2,560.00	\$4,848.22	
a. Preexisting child support payment.	\$0.00	\$0.00	
b. Preexisting spousal support payment.	\$0.00	\$0.00	
2. Monthly Adjusted Gross Income	\$2,560.00	\$4,848.22	
3. Combined Monthly Adjusted Gross Income			\$7,408.22
4. Percentage Share of Income	34.56 %	65.44 %	
5. Basic Child Support Obligation			\$1,482.99
6. Shared Custody Basic Obligation			\$2,224.48
7. Each Party's Theoretical Child Support	\$768.78	\$1,455.70	
8. Percentage With Each Party	50.00 %	50.00 %	
9. Basic Child Support for Time With Other Party	\$384.39	\$727.85	
a. Net Child Care Cost			\$292.00
b. Child's health insurance premium cost			\$330.12
c. Extraordinary medical expenses			\$0.00
d. Extraordinary expenses			\$0.00
e. Optional. Minus extraordinary adjustments			\$0.00
10. Total Expenses/Extraordinary Adjustments			\$622.12
11. Each Party's Proportionate Share	\$215.00	\$407.12	
12. Proportionate Share of Direct Payments	\$119.25	\$181.31	
13. Each Party's Child Support Obligation	\$480.14	\$953.66	
14. Guideline Child Support Order	\$0.00	\$473.52	
15. Recommended Child Support Order	\$0.00	\$473.52	
Comments			

Date: 6/18/2013  
 Prepared By: \_\_\_\_\_

LouisianaGuidelines.com

FILED July 17 2013  
[Signature]  
 CLERK OF COURT  
 ACADIA PARISH, LA

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