

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

_____ ,

Plaintiff,

Civil Action No. _____

_____ ,

Defendant.

JOINT CUSTODY AGREEMENT

THIS JOINT CUSTODY AGREEMENT entered into and executed in duplicate this ____ day of _____, 19__ by and between _____, Plaintiff and sometimes hereinafter referred to as the mother and _____, Defendant and sometimes hereinafter referred to as the father.

RECITALS

WHEREAS, the Plaintiff has instituted an action in the Circuit Court of _____ County, West Virginia, styled _____, and

WHEREAS, the parties have discussed and believe that they can communicate among themselves concerning the best interest and welfare of the infant children,

_____ ,

_____ ,

_____ ,

Father's initials

Mother's initials

born of these parties; and

WHEREAS, it is the mutual desire of the parties that this agreement be approved, ratified, merged and made a part of any Order or Orders in the above styled civil action.

NOW THEREFORE WITNESSETH that for and in consideration of the mutual covenants herein contained the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree and covenant as follows:

I.

Voluntary Agreement

That the parties respectfully state and acknowledge that this agreement is being entered into voluntarily by each of them without undue influence, fraud, coercion or misrepresentation on the part of the other and that each considers this agreement to be in the best interest of the parties and the children.

II.

Acknowledgment of Right to Counsel

That each of the parties hereby acknowledge and agree that they have the right to consult an attorney of their choice prior to the signing of this agreement; that by the execution of this agreement by the parties shall have binding effect on both of the parties hereto.

III.

Acknowledgment of Paternity, Maternity and Joint Custody

A. That the parties acknowledge that they are the parents of the following children:

Name	Birth Date
_____	_____
_____	_____

Father's initials

Mother's initials

Father's initials

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Mother's initials

Name Birth Date

Name Birth Date

B. The parties agree and acknowledge that they are able to communicate with respect to the best interest of the children and that will be promoted if the Family Law Master of _____ County would recommend to the Court to approve joint custody regarding any future hearing or hearings before the Circuit Court of _____ County or other Court of competent jurisdiction.

C. That the parties further agree and acknowledge that if the Court approves the joint custody of the children that there will be no problems between the parties as it relates to the care, custody and control and education of the infant children and that the parties believe that the joint custody agreement will promote the best interest of the children.

IV.

Primary Residence

That the parties agree that the _____ [mother/father (Choose one)] will be the primary resident parent and provide the primary residence for the infant children subject to the following:

A. That if and in the event that the [mother/father (Choose one)] should ever relocate that the parties hereto will confer with each other and ascertain the best interest of the infant children with regard to the relocation of the children's primary residence. Provided that if the parties cannot agree to the proposed relocation, then the party relocating must obtain

Father's initials

Mother's initials

permission of the Court prior to the proposed relocation.

B. That if one of the infant child(ren) desires to change primary residence and there is no just reason why he/she should not be allowed to do so; the parties hereto agree that they will consent to the change.

V.

Visitation

The parties agree that the following visitation schedule will be observed and abided by the parties.

A. That the parties hereby agree that there will be no restrictions as to visitation with the infant children and visitation shall be reasonable and seasonable in nature and if the parties cannot agree then visitation shall be in accordance with Schedule A of the Guidelines for Custody and Visitation, _____ County.

B. That the parties hereby agree that there will be no restrictions placed as it relates to telephone contact with the infant children so long as such contact is reasonable and seasonable.

C. That the _____ [Mother/Father (Choose one)] shall be used as a babysitter for the infant children when the _____ [Mother/Father (Choose one)] is unable to be with the children due to work and/or social engagements.

D. That if and in the event a parent is unable to babysit because of a conflict in his/her schedule the parties agree that they will first attempt to find another suitable and

agreeable relative, i.e. one of the grandparents of the children to babysit for them otherwise, the cost of a paid babysitter shall be the responsibility of the party needing babysitting services.

VI.

Support

A. That the responsibility of support for the infant children is agreed to be a mutual obligation; however, the parties hereto agree that the applicable child support formula shall be used in calculating the monthly support obligations of the parties. That the parties agree to advise the other within thirty (30) days of any changes in income status.

B. The following provisions are made for the support and maintenance of the minor children: _____

C. The parties further agree that extraordinary medical expenses shall be divided equally and the parties further agree that they shall save and hold harmless the other on their share of these expenses.

D. The parties further agree that the children shall be covered under a West Virginia Department of Health and Human Resources medical card until such time that the

parties and/or the children do not qualify for West Virginia Department of Health and Human Resources medical card or either party has insurance coverage; then the covered party is to provide health care insurance for the infant children and any amounts not covered by insurance would be divided equally between the parties.

E. The parties further agree that:(Choose one of the options)

_____ The parties will alternate years in claiming the children for federal and state income tax purposes with the father claiming the children on odd numbered years and the mother claiming the children on even numbered years.

_____ The _____ [Mother/Father (Choose one)] shall have the benefit of claiming the children for purposes of the federal and state income tax exemption.

_____ The following provision is made for the purpose of the federal and state income tax exemption for the minor children: _____

VII.

Medical Treatment

A. That the parties further agree notwithstanding the provisions of the

Father's initials

Mother's initials

preceding paragraph involving medical insurance that the _____'s [Mother/Father (choose one)] insurance will be designated as the primary policy and the _____'s [Mother/Father (choose one)] policy shall be designated as the secondary policy, it being further understood and agreed between the parties that if and in the event that either party should, from time to time, be without coverage that the party still covered by insurance will be designated as the primary policy. That if in the event that neither party has major medical insurance the parties hereto agree that they will be equally responsible for the cost of medical treatment for the infant children.

B. The parties further agree that each shall have authority and authorization, either jointly or severally, to consent for emergency medical treatment. That in the event that neither the mother or the father would be available then the authority to consent for emergency treatment may be given by _____.

C. The parties further agree that any consent for elective medical treatment shall be by mutual agreement of the parties and; the consent shall not be unreasonably withheld by either of the parties.

D. That the parties agree that _____ shall be the primary treating physician of the infant children unless Dr. _____ is unable, moves or is otherwise unable to treat the children then the parties agree to allow the children to be treated by any available competent physician.

E. That the parties further agree that they will fully and completely and in a

timely manner advise and confer with each other concerning medical treatment received or to be received in the future.

VIII.

Education

A. The parties agree that the children shall be educated in the county schools in the district in which the _____ [Mother/Father (choose one)] lives unless the primary residence of the children changed according to the preceding paragraphs of this agreement and in that event the parties agree that the children's education shall be obtained in the public school system of the children's new primary residence.

B. The parties further agree that unless there is good reason why the infant children should not go to public schools rather than private schools, the children will attend a public school.

C. If and in the event there is good reason or the parties hereinafter mutually agree that the children shall go to private schools the parties hereto agree that the cost of a private education will be paid in the same percentage amount as each parties obligation appears upon the working of the applicable child support formula.

D. That the parties agree that either party may sign report cards and excuses but that the party signing shall within five (5) days communicate to the other party the contents of report cards or excuses and shall otherwise generally keep the non-custodial party fully and completely informed about the children's educational progress.

E. The parties further agree that each shall have the right to attend any and all parent-teacher conferences and/or school activities for the children without interference from

the other. That the parties will fully and completely advise the other on a timely basis and in a timely manner of upcoming parent-teacher conferences and/or school activities of the children.

IX.

Children Activities

A. That the parties mutually agree that the _____ [Mother/Father (choose one)] shall be responsible to transport the children to any school or social activities that the children desire to participate in. However, it is further understood and agreed by the parties that if the [Mother/Father (choose one)] should need to transport the children for the aforesaid activities that reasonable notice shall be given concerning transportation of the children.

B. That the parties agree that the infant children will be allowed to participate in any and all activities except activities which are out of the ordinary.

C. That the parties further agree that they are authorized both jointly and severally to consent for the children's participation in ordinary activities and the consent will not be withheld unreasonably.

X.

Religious Training

That the parties shall consult with one another concerning the religious training for their infant children in order to achieve a result consistent with the welfare and best interest of said children, with primary consideration given to historical practice. The parties further agree that neither party shall attempt to modify the religious practice of the children without first

having consulted with each other.

XI.

Finances of Children

A. That the parties agree that future allowances for the children will be discussed and agreed to by the parties and that either has the right to provide allowance if they desire. However, nothing herein shall be construed to place an affirmative obligation on either of the parties to provide an allowance for the infant children.

B. That the parties further agree that any funds, trust accounts, etc. in existence upon the date of the execution of this agreement of the children shall be under the joint supervision and control of the parties to this agreement. The parties further agree that each of their signatures shall be required to withdraw any monies from these accounts.

That if these accounts are opened in the future, then the party establishing the account shall have the sole authorization and control over the accounts provided that any future accounts established by reason of settlement of a claim prosecuted on behalf of the infant children shall be under the joint supervision and/or control of the parties' judgment or unless otherwise directed by a Court of competent jurisdiction.

C. The parties further agree that the _____ [Mother/Father (choose one)] of first part shall be authorized to consent to allow the infant children to work if the consent is required and upon giving proper notice to the other party.

Father's initials

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Mother's initials

XII.

Discipline

A. The parties agree that the children must from time to time be disciplined and that the method of discipline used shall be determined by the severity of the children's actions. Discipline may be corporal in its nature if the situation requires. The parties hereto further agree that they trust each other in the exercise of disciplining the infant children.

B. That the responsibility of the day to day discipline of the infant children shall be the responsibility of the party with actual physical custody of the infant children.

C. That the parties agree that major disciplinary problems will be handled jointly by the parties and that the parties shall immediately notify the other of any major discipline problems.

D. The parties agree that any legal responsibility of the children's tort acts or malicious acts shall be shared equally between the parties.

XIII.

Parental Communication

The parties agree that communication with each other, as it relates to the welfare of the children, is essential to this agreement being viable. Therefore, the parties agree that they will confer and communicate regularly or as needed concerning the best interest of the infant children and especially as it relates to the provisions of this agreement. It being understood by

the parties hereto that it is not necessary to call the other on the minor day to day decisions that are required in raising the infant children.

XIV.

Dispute Resolution

If and in the event a dispute arises in the interpretation of this agreement or a dispute arises under any of the provisions of this agreement the parties agree that the following procedure will be used in resolving disputes between the parties:

1. The parties further that should any difficulties arise concerning the joint custody or the welfare of the children that they will refer their differences to a mutually agreed arbitrator. The parties shall attempt to resolve their differences with a family counselor at _____ or with such other family counselor as the parties may mutually agree with the expense of such counseling being borne equally by the parties. The parties further agree that the appointment of an arbitrator is fair and that he/she will act in the children's best interest and that the arbitrator's decision shall be binding on the parties hereto.

2. That if and in the event that the mechanics set out in the preceding paragraph does not resolve the dispute which the arbitrator decided, the parties agree that judicial action may be instituted by either party hereto, and the dissatisfied party shall immediately notify the other. The parties further agree that if and in that event, each of the parties shall hire an attorney of their own choice and each of the parties shall be totally responsible for their individual attorney's fees.

3. That if and in the event that the mechanics set out in the preceding paragraph does not resolve the dispute which the arbitrator decided, the parties agree that the custody of their infant children shall remain subject to the continuing jurisdiction of the Circuit Court of _____ County, so long as one or both of the parties remain within the state. The parties further agree that if the Circuit Court and/or the Family Law Master find that a material breach of the covenants of this agreement has occurred, the parties agree that this agreement may be set aside and that the issue of future custody of the infant children shall be resolved under the rules governing modification proceedings. It being further understood and agreed by the parties hereto that the _____ [Mother/Father (Choose one)] was the primary caretaker of the infant children prior to the execution of this agreement and said presumption shall remain with that parent on any future modification proceedings.

XV.

Miscellaneous

The parties agree that the marriage or re-marriage of either party shall have no effect on the provisions of this agreement. Specifically the parties agree that their new spouses will have no authority in the enforcement of the provisions of this agreement unless by subsequent agreement mutually agreed upon by the parties and property executed by the parties hereto.

XVI.

Entire Agreement

The parties hereby acknowledge and agree that this agreement contains the entire agreement as reached between them and further acknowledge that any modification of this agreement must be done in writing, signed by the parties and properly acknowledged according to the law.

XVII.

The parties further acknowledge that they have read and understood each and every paragraph of this agreement and have so indicated their understanding of the terms and conditions contained herein by initialing each page, and that each party has had the opportunity to obtain independent legal advice by counsel of his or her selection prior to the execution of this agreement and that this Agreement, in the opinion of both parties, is fair and equitable.

Father's initials

Mother's initials

Entered into on the day, month and year first written above.

Witness the following signatures and seals:

Signature

Print Name

Signature

Print Name

STATE OF WEST VIRGINIA
COUNTY OF _____, TO-WIT:

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ whose name is signed to the foregoing writing bearing date _____, 19 ____, has this day acknowledged the same before me in my said County and State.

Given under my hand and Notarial Seal this ____ day of _____, 19__.

My commission expires _____.

NOTARY PUBLIC

STATE OF WEST VIRGINIA
COUNTY OF HARRISON, TO-WIT:

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ whose name is signed to the foregoing writing bearing date _____, 19 ____, has this day acknowledged the same before me in my said County and State.

Given under my hand and Notarial Seal this ____ day of _____, 19__.

My commission expires _____.

NOTARY PUBLIC