

**IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA**

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PLAINTIFF

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VS.

Case No: DR-\_\_\_\_-\_\_\_\_\_

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DEFENDANT

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**PRE-TRIAL ORDER**

The following Pre-Trial Order applies to the above referenced case unless the Court specifically orders otherwise.

**READ THIS ORDER CAREFULLY.  
FAILURE TO COMPLY IS CONTEMPT OF COURT.**

Attorneys of record shall inform their clients of the contents of this Pre-Trial Order.

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

**PART 1 – CASE MANAGEMENT ORDERS**

1. Trial Setting. The Court will set a trial date as soon as the parties certify the case ready for trial (as described in paragraph 5 below). The Court expects all cases to be tried within 12 months after the filing of the Complaint, and the deadlines set in herein are designed to accommodate same.
2. Discovery deadline. Unless the Court sets a shorter time, all discovery shall be completed within 270 days after filing of the Complaint. Notwithstanding the foregoing, for good cause shown, the Court may permit, or parties may agree that additional discovery be undertaken any time prior to trial, so long as such discovery is completed so as not to require a continuance of the trial setting.
3. Compliance with discovery. Discovery in divorce cases is broad. The Court expects all parties to comply with discovery in a timely manner. Failure to do so will result in sanctions to include paying the other party’s attorney’s fees related to discovery and possible dismissal or default against the offending party. The Court does not expect to spend Court time resolving routine discovery requests. If a hearing is set to resolve discovery disputes, the party the Court finds to be in noncompliance should expect to pay the other party’s attorney’s fees. Counsel shall confer before a scheduled hearing on any discovery dispute and attempt to resolve or narrow the issues. The Court disfavors “boilerplate” objections.

4. Motion to Set and Certificate of Readiness. Either or both parties shall file a Motion to Set for Trial and Certificate of Readiness (preferably jointly), which shall be filed no later than 270 days after the filing of the Complaint. If such motion is not filed by the 280<sup>th</sup> day, the Court will cause the case to be marked “To Be Dismissed” and set on a disposition docket as near as possible to the 300<sup>th</sup> day after the filing of the Complaint and send notice to all parties. If a Motion to Set and Certificate of Readiness (which complies with the following paragraph) is not received prior to the disposition date, the case will be dismissed without further notice.
5. Contents of Certificate of Readiness. The Motion to Set and Certificate of Readiness shall contain the following information:
  - a. An affirmative statement that all discovery is substantially complete or will be completed within 30 days of the Certificate of Readiness.
  - b. An affirmative statement that the movant understands the trial will not be reset due to the lack of discovery.
  - c. The expected length of the trial expressed in hours and/or days.
6. Controverting Certificate. Within 7 days after a Motion to Set and Certificate of Readiness has been filed, any other party may file a Controverting Certificate specifying the statements contained in the Certificate of Readiness to which the objection is made, and the reason(s) therefore. The Court shall thereupon set the case for a Rule 16 Conference or hearing to resolve the dispute.
7. Extraordinarily complex cases. If it becomes apparent that a case is extraordinarily complex, or some other exceptional circumstance exists that will make it impossible for the parties to comply with the discovery deadline and other time constraints set out herein, the party making that determination shall immediately file a Motion for a Rule 16 Scheduling Conference so the Court can enter a Scheduling Order that excepts the case from the time constraints set out in this Pretrial Order. No such motion filed more than 270 days after the Complaint is filed will be considered by the Court.
8. Trial setting. Seven days after a Motion to Set is filed, if a Controverting Certificate has not been filed, the case will be set for trial, which trial date shall not be reset except for good cause shown. Once a case is set for trial, all parties and counsel shall appear on the trial date unless they have received a Court Order resetting the case or a copy of an Order of this Court which disposes of the case in full (even if they have submitted a signed agreement to the Court, but the Court has not yet approved the proposed agreement).
9. Mediation. The Court strongly encourages mediation if the parties are unable to settle their case without a mediator. The parties (either jointly or individually) may file a motion requesting mediation which the Court will grant, according to Alabama Code Section 6-6-20. However, any request for mediation must be filed within 270 days of the filing of the Complaint. The Court will consider any request filed after that to be

an attempt to delay the trial and same will not be granted. Any time the Court deems it appropriate to do so, the Court may order the case to mediation on its own motion.

10. Notification of Settlement. To provide other litigants prompt trial settings, all attorneys shall notify the Court when a case has settled by immediately filing the signed settlement agreement with the Court, and notifying the Clerk's office that same has been filed so the documents may be processed and sent to the Judge for review.

PART 2 – STATUS QUO ORDERS
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11. Payment of recurring expenses. It is the intent of the Court for the parties to maintain the status quo as it existed during the marriage and prior to the decision to file for divorce to the extent possible. Therefore, it is **Ordered** that the parties continue to pay all debts and other regular expenses, including but not limited to rent, mortgage payments, utilities, cell phone, car loans, gas, food, insurance, children's school and/or child care expenses and other necessary living expenses in the same manner and from the same source as they were customarily paid in the months leading up to the filing of the divorce. If the Court is called on to determine what is customary, the Court will review the average expenditures in the six (6) months leading up to the filing of the Divorce and any other information that may be relevant to that determination.
12. Preservation of assets and access. Without prior Court authorization or the written agreement of both parties, the parties **shall not**:
  - a. sell, assign, transfer, conceal, liquidate, encumber, dissipate, destroy, damage or otherwise dispose of assets presently in their control, nor shall they direct or permit the same to occur;
  - b. make withdrawals from, encumber, or liquidate any account with a financial institution including but not limited to checking, savings, money market, CDs, or the like (except for the ordinary expenses necessary to maintain the status quo as Ordered in paragraph 6 above or to pay lawyer's fees or litigation expenses herein);
  - c. withdraw from, borrow against, change the beneficiary designation or otherwise reduce any retirement accounts, stock purchase plans, or the like;
  - d. change any insurance policy (medical, life, property, etc.) including making any changes to coverage, amount or term, ownership, beneficiary designation, or allows such policies to lapse;
  - e. terminate, allow to lapse, or otherwise adversely affect any utility service, including water, gas, electric, cable, internet, telephone or other services, or withdraw deposits therefrom;
  - f. terminate or limit the other spouse's access to credit cards to which they have customarily had access prior to the divorce being filed;
  - g. destroy or alter any records of any kind, including electronic data files; or

- h. limit the other party's access to the home (unless the parties have already agreed to separate prior to the divorce being filed), safe deposit box, financial records or storage unit(s) to which that party normally had access during the marriage.

*However*, this Order shall not prohibit the use of earned income to pay reasonable and necessary debts and living expenses of the parties as required under paragraph six (6) above *or* when necessary in the normal and reasonable course of operating a business.

13. Use of automobiles. Regardless of how a vehicle may be titled, automobiles shall continue in the possession of the party using it prior to the filing of the divorce.
14. Negotiation of other terms. The parties are encouraged to mutually agree, if possible, to any other or different terms and conditions which will maintain the parties' financial condition pending the trial. However, any such agreement, if contrary to the terms of this Order, shall be in writing and signed by both parties.

PART 3 – OTHER PRETRIAL & ADMINISTRATIVE ORDERS
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15. Injunction against harassment. Each party is hereby restrained from harassing, intimidating, assaulting, abusing, or threatening the other during the pendency of this case, either directly or indirectly, in person or by means of telephone, text, mail, email, chat, messenger, social media or through third parties.
16. Parties' contact address information. Each party **shall** keep a current mailing address and e-mail address on file with the Domestic Relations Clerk's office throughout the pendency of this case. Such may be sent to: Tachonda Smith, Deputy Clerk, 205 Government Street, Room C 909, Mobile, Alabama 36644.
17. The Judge is ethically prohibited from communicating with parties outside of Court. Do not attempt to contact the Judge or his staff in any way through mail, social media, e-mail and/or fax. Contact your attorney with any questions.
18. The Judge is ethically prohibited from serving as an advocate for either party. The Judge, the Judge's staff and the clerks are prohibited by law from giving you legal advice. If you choose to represent yourself, you must comply with the *Alabama Rules of Civil Procedure* and the *Alabama Rules of Evidence*. Pro se parties are responsible for informing themselves of the contents and responsibilities under this Order.
19. Trial Exhibits. At least 3 business days prior to the trial (or any pendente lite hearing), all parties shall pre-mark their Court exhibits and upload them to the case file on Alafile under the Exhibits tab. Those Exhibits will be considered proposed exhibits and are not considered evidence unless and until they are admitted by the Court into evidence during the hearing/trial. Except for impeachment evidence, a signed CS-41, or if the Court grants leave for exigent circumstances, any exhibits that are not

uploaded to the Exhibits Module in Alafile 3 business days prior to the trial/hearing will not be allowed into evidence if the opposing party raises an objection to same. Pro se parties must register for Alafile to upload exhibits to comply with this provision.

20. Duty to supplement discovery. All parties are under a duty to supplement responses to discovery as provided by Rule 26(e)(3) ARCP which shall be done no less than 30 days before trial.
21. Attorney calendar conflicts. In the event of a scheduling conflict, counsel with the conflict shall comply with the Attorney Calendar Conflict Resolution Order of the Alabama Supreme Court. If counsel fails to do so, upon request of opposing counsel, the Court will consider an award of attorney's fees incurred because of such failure.

PART 4 – ORDERS RELATED TO MINOR CHILDREN
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**IF THE PARTIES HAVE A MINOR CHILD(REN) UNDER THE AGE OF 19, THEN THE FOLLOWING ADDITIONAL ORDERS ALSO APPLY TO YOU:**

22. Legal Custody. During the pendency of the action the parties shall share joint legal custody of the child(ren). The parties shall consult each other regarding the academic, religious, civic, cultural, athletic, and other activities, and the medical and dental care of the minor child(ren). Pursuant to Code of Ala. § 30-3-154, each parent shall have access to all records and information pertaining to the children, including, but not limited to, medical, psychological, dental, scholastic, athletic, extracurricular and law enforcement records.
23. Physical Custody. It is the intent of the Court that the child(ren) have frequent and substantial time with both parties, unless extraordinary circumstances warrant otherwise. Additionally, it is the Court's intent that the child(ren)'s life be disrupted as little as possible during this divorce and that as much stability be maintained for the child(ren) as possible. To that end, if the parties choose to separate during the pendency of this case, the Court strongly encourages the parties to work out an agreement about their respective time with the child(ren) that best serves those ends. In the event the parties are unable to do so, then they are hereby Ordered to obtain a copy of, review and follow the Court's **Parenting Plan Guidelines** which is available from the Clerk's office or online at <http://13jc.alacourt.gov/clerkDomesticRelations.html>.
24. Denial of visitation/custodial time. If the Court has determined that a parent has wrongfully denied the other parent visitation/custodial time, the Court will strongly consider awarding "make up time" with the effected parent and will order the offending party to pay the other party's attorney's fees incurred as a result.
25. Contact information. Each party will keep the other apprised of the address and phone number where the children will spend the night for all custodial periods.

26. Helping Children Cope with Divorce. Each party **shall** successfully complete the education seminar known as Helping Children Cope with Divorce. This four-hour seminar educates the parents about the needs of children during and after divorce of their parents. It is not a counseling session. Personal problems will not be discussed. It is to educate parents on how they can best help their children navigate this transitional period.

Registration and fees are the responsibility of each party through the Family Counseling Center located at 705 Oak Circle Dr., Mobile, AL (251) 602-0909. This seminar must be completed by each party within 60 days of service. Failure for either party to attend may result in sanctions or could delay the entry of a final Judgment of Divorce. Each party shall call the Family Counseling Center to register or may register online at <https://www.lifelinesmobile.org/family-marital-and-divorce-counseling/>.

In the event, either party has previously attended a similar program, then upon proper request being filed with the Court, the Court may enter an order excusing such party from taking the class again.

**FAILURE TO ABIDE BY THIS COURT ORDER MAY BE CONSIDERED CONTEMPT OF COURT AND PUNISHED ACCORDINGLY. SUCH PUNISHMENT MAY INCLUDE ALL SANCTIONS AVAILABLE TO THE COURT UNDER LAW, INCLUDING ATTORNEY'S FEES, FINES AND/OR INCARCERATION IN THE COUNTY JAIL. YOU ARE STRONGLY ENCOURAGED TO DISCUSS THE CONTENTS OF THIS ORDER WITH YOUR LEGAL COUNSEL.**

DATED: \_\_\_\_\_

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Walter H. Honeycutt  
Circuit Judge

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Michael D. Sherman  
Circuit Judge