

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

DEBRA ANN KALLHOFF,

Petitioner,

vs.

BRAD ALLEN KALLHOFF,

Respondent.

Case No. CI99-42

**DECREE OF DISSOLUTION
OF MARRIAGE**

On January 25, 2000, this matter came on for final hearing. The petitioner appeared personally and was represented by Ronald E. Temple, and the respondent appeared personally and was represented by Mark A. Keenan. A trial was had to the Court. The matter was taken under advisement.

NOW, on **January 27, 2000** (the date of entry of decree), the Court, being fully advised in the premises, hereby finds, orders, adjudges and decrees as follows:

1. **JURISDICTION:** At filing, the petitioner resided in this county and now resides in this county. The petitioner resided in Nebraska for more than one year prior to filing. More than 60 days have passed since personal service was perfected or a voluntary appearance was entered. Neither party is now a party to any other pending action in any court for divorce, legal separation, or dissolution of marriage. Neither party is a member of the Armed Forces of the United States or any of its allies. The Court has jurisdiction of both parties and the subject matter of this action.

2. **MARRIAGE:** The petitioner and the respondent were married on November 20, 1987, in the City of O'Neill, Holt County, Nebraska.

3. **DISSOLUTION:** All reasonable efforts to reconcile have been made and there is no reasonable possibility of reconciliation. The marriage is irretrievably broken and should be, and hereby is, dissolved. This decree becomes final and operative after 30 days from date of entry, except for purposes of appeal and except that neither party may remarry (other than to each other) for six months from date of entry and the parties are deemed as married for health insurance purposes during such six month period. If either

party dies prior to expiration of such time periods, the decree becomes final as of the date of entry.

4. **ISSUES TRIED AND STIPULATED:** The parties were unable to agree as to certain issues and a trial was had on such issues. A written stipulation was received as Exhibit 21. A supplemental oral stipulation was entered into on the record in open court. The stipulations are fair and reasonable in all respects and are not unconscionable, and are hereby approved, and compliance therewith ordered, and the findings and orders hereinafter made incorporate such stipulations insofar as they go, and the Court determines the other issues upon the evidence presented. To the extent of any conflict between such stipulations and the provisions of this decree, the terms of this decree shall control.

5. **PAYMENTS:** All payments of child support, alimony, attorneys fees, and/or costs ordered in this decree shall be paid to the Clerk of the District Court of Holt County, Nebraska, for disbursement to the person entitled to receive the same. NO CREDIT MAY BE ALLOWED FOR ANY PAYMENT NOT PAID THROUGH THE CLERK OF THIS COURT.

6. **PETITIONER'S PROPERTY:** The petitioner's sole and separate property, subject to encumbrances unless otherwise provided herein, shall consist of:

- a. All of the property now in the petitioner's possession except as specifically awarded to the respondent herein.
- b. 1990 Ford Aerostar van.
- c. All checking, savings, and other bank or similar accounts in the name of the petitioner.
- d. Camper.

7. **RESPONDENT'S PROPERTY:** The respondent's sole and separate property, subject to encumbrances unless otherwise provided herein, shall consist of:

- a. All of the property now in the respondent's possession except as specifically awarded to the petitioner herein.
- b. Leasehold interest in 1999 Ford pickup.

c. All checking, savings, and other bank or similar accounts in the name of the respondent.

d. All life insurance policies insuring the respondent's life.

e. All horses, saddles, and tack in the respondent's possession.

8. **BRANDON'S PROPERTY:** The 1980 Ford Mustang automobile and the horse named "Te" are determined to be the property of Brandon Michael Kallhoff, and neither party shall have any ownership interest therein.

9. **DEBTS:** The indebtedness of the parties shall be paid as follows:

a. Each party shall pay the debts incurred by them personally since their separation on April 2, 1999.

b. The petitioner shall pay the following:

(1) The indebtedness to Tri County Bank in the approximate amount of \$1,700.00, secured by the Aerostar van;

(2) One-half of the 1998 and 1999 personal property taxes owed to The County of Holt, Nebraska, with accrued interest thereon, to be paid in full by 4:30 p.m. on January 25, 2000; and,

(3) Any cellular phone charges and/or service contract fees incurred in the possession and usage of her cellular phone.

c. The respondent shall pay the following:

(1) Any lease debt or obligations regarding the lease of the 1999 Ford F250 pickup;

(2) One-half of the 1998 and 1999 personal property taxes owed to The County of Holt, Nebraska, with accrued interest thereon, to be paid in full by 4:30 p.m. on January 25, 2000; and,

(3) Any cellular phone charges and/or service contract fees incurred in the possession and usage of his cellular phone.

d. Each party shall indemnify and hold the other party harmless of all liabilities such party is required to pay and of all debts encumbering property such party receives.

10. **RELEASE OF LIENS:** All liens arising by operation of law on account of the temporary support order (entered April 15, 1999), including both as to child support and to spousal support, are released and discharged as to the following-described real estate ONLY, to-wit: The South Half of the Southwest Quarter (S½SW¼) of Section 6, Township 27 North, Range 11, West of the 6th P.M. in Holt County, Nebraska, except that portion conveyed to the State of Nebraska, in Book 148 at Page 519.

11. **ALIMONY:**

a. As a result of payments made following the contempt hearing held contemporaneously with the final hearing, the respondent paid the full balance of the spousal support arrearage of \$1,000.00, plus interest of \$16.80, which was delinquent at that time. In pronouncing the findings of contempt, the court erroneously stated the alimony delinquency to be \$1,200.00 plus interest, whereas the correct amount was \$1,000.00 plus interest. The respondent is therefor entitled to credit for the advance payment of \$200.00 of spousal support. Such \$200.00 credit now appears on the records of the court clerk, and no adjustment to the clerk's records is required.

b. The respondent shall pay permanent alimony (spousal support) to the court clerk for disbursement to the petitioner in the total sum of \$1,400.00, payable as follows:

(1) \$200.00 on or before February 1, 2000, which amount shall be deemed to be satisfied by the credit now appearing on the clerk's records;

(2) \$400.00 on or before November 1, 2000;

(3) \$400.00 on or before May 1, 2001; and,

(4) \$400.00 on or before November 1, 2001.

(5) Such alimony is subject to termination on the death of either party or the remarriage of the petitioner.

(6) There shall be no interest upon any installment paid on or before the due date thereof, but any delinquent installment shall bear interest at the rate of 6.997% per annum from due date until paid.

12. **COSTS AND ATTORNEYS FEES:** In addition to the amount of attorney fees taxed to the respondent in the contempt proceeding, the respondent shall pay attorney

fees for the benefit of petitioner's attorney of \$750.00, taxed as costs of this action, within one year of the entry of this decree. Each party shall otherwise pay such party's own final costs and attorney's fees.

13. CHILDREN:

a. There is no entry concerning any minor child affected by this action in the Nebraska Child Custody Jurisdiction Act Registry of the Court, and this Court has jurisdiction of the minor children of the parties to this action, as follows:

Brandon Michael Kallhoff, born on March 8, 1982;

Stephanie Leigh Kallhoff, born on September 7, 1983;

Jacob Allen Kallhoff, born on February 7, 1989; and,

Austin James Kallhoff, born on September 6, 1991.

b. The petitioner is awarded the care, custody and control of the minor children, Stephanie Leigh Kallhoff, Jacob Allen Kallhoff, and Austin James Kallhoff, subject to reasonable rights of visitation and correspondence in the respondent, which as to Jacob and Austin shall include but not necessarily be limited to the specific visitation as set forth in Appendix "C" (which was Exhibit "A" to the parties' written agreement, and **not** the standard visitation schedule in this district) attached and incorporated by reference. In addition thereto, the respondent shall receive week-night visitation with Jacob and Austin on Wednesday of each week from 5:00 p.m. to 8:00 p.m.

c. The respondent is awarded the care, custody and control of the minor child, Brandon Michael Kallhoff, subject to reasonable rights of visitation and correspondence in the petitioner.

d. Appendix "A," Supplemental Order for Custody, etc., attached is incorporated into this Decree, and the parties are directed to comply therewith.

14. CHILD SUPPORT:

a. The respondent is ordered to pay child support to the court clerk for distribution to the petitioner at the rate of \$385.00 per month when there are four children subject to the order, \$600.00 per month when there are three children subject to the order, \$500.00 per month when there are two children subject to the order, and \$348.00 per month when there is one child subject to the order.

b. Such payments shall commence on February 1, 2000, and continue in a like amount on the first day of each month thereafter until each child reaches majority under Nebraska law, becomes emancipated, becomes self-supporting, marries, or dies, or until the further order of the Court.

c. The respondent is granted an equitable credit toward the existing child support delinquency in the amount of \$600.00, which shall be entered by the clerk upon the support records as if a payment of such amount had been made as of the date of entry of the decree. The remaining amount of delinquent temporary support of \$400.00, with accrued interest thereon, is preserved herein, and ordered paid by the respondent forthwith.

d. Delinquent child support installments shall bear simple interest from thirty (30) days after date of delinquency until paid at the rate of 6.997% per annum.

e. The child support amount has been determined pursuant to the Nebraska Child Support Guidelines, and the findings of the parties' incomes and calculations under the guidelines used in determining the amount of support are set forth on Appendix "B" attached hereto. In determining the incomes of the parties for purposes of the support calculations, the court has used the respective party's present earning capacity. In the case of the petitioner, such amount is based upon her present wage rate for a 40-hour week. In the case of the respondent, such amount is based upon his admitted present earning capacity, which is greater than his present actual earnings, but less than his former earnings in cross-country, long-haul trucking employment. Such trucking employment is no longer feasible given his child care responsibilities under the stipulated custody arrangement.

f. The monthly support amounts determined above are premised upon the support obligation for Brandon terminating before the support obligation terminates for any other child.

15. WITHHOLDING & ENFORCEMENT (MANDATORY):

a. The respondent's income shall be subject to income withholding, which shall be implemented pursuant to the Income Withholding for Child Support Act. Within thirty (30) days after the date of entry of decree, such party shall accurately prepare

and sign a Notice to Withhold Income (Form DC-005), and deliver the notice to such party's current employer and provide a copy of such notice to the court clerk. Within thirty (30) days after any change of employment, a new Notice to Withhold Income shall be prepared, signed, and delivered, and a copy provided to the court clerk in the same manner.

b. In the event that such party fails to pay any child, medical, or spousal support payments, as such failure is certified each month by the District Court Clerk in cases where court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, such party may be required to appear before this Court on a date to be determined by the Court and show cause why such payment was not made. In the event such party fails to pay and appear as so ordered, a warrant shall be issued for such party's arrest.

16. **INCOME TAX EXEMPTION:** The respondent shall be entitled to claim Brandon Michael Kallhoff and Austin James Kallhoff for dependency exemption purposes for federal and state income taxes for tax year 1999 and the petitioner shall be entitled to claim Stephanie Leigh Kallhoff and Jacob James Kallhoff for such year. The respondent, if such party pays child support as ordered herein, shall be entitled to claim the minor children, Brandon Michael Kallhoff and Austin James Kallhoff, for dependency exemption purposes for federal and state income taxes, for tax year 2000 and future years until further order. The petitioner is ordered to sign a written relinquishment of the petitioner's claim to the dependency exemption separately for each such child for each year including and following the date of the decree until the obligation of support for such child terminates. The petitioner is ordered to deliver such relinquishment to the respondent for the next preceding calendar year on or before January 31 of each year, but only if all child support payments due are paid as of December 31 of the preceding calendar year. The respondent is ordered not to claim any dependency exemption at any time when such party has not paid all child support payments which have become due. The Court retains jurisdiction to enter such orders as may be necessary, including contempt proceedings or modification of support, in the event such party claims a dependency exemption at a time when such party has not paid all child support payments which have become due.

17. **HEALTH INSURANCE:**

a. The respondent shall provide health insurance coverage on each minor child until the obligation of support terminates as above set forth, so long as such coverage is provided through such party's employment.

b. Any reasonable and necessary medical, hospital, dental, orthodontic, and ophthalmological expenses incurred for a minor child for whom the obligation of support has not terminated and which are not reimbursed by insurance, including any deductible or co-insurance requirement, shall be paid 50% by the petitioner and 50% by the respondent.

c. The health insurance policy information necessary to comply with the reporting requirement hereinafter set forth shall include, at a minimum, the following: (1) insurance company name and address; (2) policy number (for group policy, both group number and individual identifying number); (3) policy holder name (for group policy, both group name and individual name); (4) policy holder's social security number; and, (5) name, address, and telephone number of any person or entity (such as an employer) with which claims are to be filed or reported.

d. If the custodial parent files a written request with the Clerk, the party required to provide insurance shall file with the Court, at least annually, a certificate of the insurance company documenting that the required health insurance is currently in effect.

e. The respondent shall fully cooperate with any health care provider to facilitate availability of prompt care, attention, and treatment to any such minor child.

18. **REPORTS:** Each party shall be required to furnish the Clerk of the District Court of Holt County, Nebraska, in writing, with such party's address (including specific street address or other physical location, in addition to mailing address), telephone number, and social security number, the name and address of such party's employer, whether or not such person has access to employer-related health insurance coverage and, if so, the health insurance policy information, and any other information that the Court shall deem relevant until any judgment for alimony, child support, property settlement, attorneys fees, and/or costs, herein made are paid in full. Each party shall also be required to advise the Clerk of any changes in such information between the time of entry of this Decree and payment of the judgment in full, within ten (10) days after the effective

date of such change. Failure to comply with the provisions of this section shall be punishable by contempt.

19. **DOCUMENTATION:** Each party is ordered to execute and deliver to the other party such documents as will be necessary to transfer all of the interest of the party not receiving the property to the party who shall receive the particular property under this Decree. In the event that any party fails to execute and deliver such documents within thirty (30) days of this Decree, this Decree shall have the effect of a conveyance and/or release under NEB. REV. STAT. § 25-1304, as amended, with the same effect as though the appropriate documents of conveyance or release had been executed and delivered in conformity with this Decree.

20. **JUDGMENT:** Judgment is hereby entered against respondent and in favor of petitioner for child support, alimony, and attorneys' fees as above set forth.

IT IS THEREFORE ORDERED that the parties to this action shall fully comply with the above findings and orders.

Signed in chambers at O'Neill, Nebraska, on January 27, 2000.

DEEMED ENTERED as of date of filing by court clerk.

If checked, the Court Clerk shall:

- : Mail copy of decree to all counsel of record and to any pro se parties.
Done on _____, 20__ by _____.
- : Enter judgment on the judgment record.
Done on _____, 20__ by _____.
- : Mail postcard/notice required by § 25-1301.01 within 3 days.
Done on _____, 20__ by _____.
- : Note the decision on the trial docket as: [date of filing] Signed "Decree of Dissolution of Marriage" entered; judgment entered accordingly.
Done on _____, 20__ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge