

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

**STATE OF NEBRASKA, on behalf of
Amber Wanser and Ashley Wanser,**
Petitioner,

vs.

**KRISTEN M. MARCELLUS and WILLIAM
M. WANSER,**
Respondents.

Case No. CI00-159

**ORDER REJECTING
STIPULATION AND
REASSIGNING FOR TRIAL**

SUBJECT OF ORDER: Proposed judgment and decree upon stipulations.

ORDER: After examination of the files, the court finds, determines, and orders:

1. It has come to the court's attention that one of the stipulations offered at trial on May 14, 2001, states that: "The parties agree that William M. Wanser shall be entitled to a fifty percent reduction in his child support obligation for the month of July of each year *if he exercises his four weeks summer visitation.*" Exhibit 1 (emphasis supplied).

2. The emphasized language cannot be approved, as it would render the child support judgment in part conditional and void.

3. When a court rejects part of a settlement stipulation, the parties are entitled to withdraw from the remainder thereof. The parties therefore have the choices of: (a) modifying the stipulation to provide that the 50% reduction will be provided in July without regard to exercise of visitation, with or without a provision stating that failure to exercise visitation would constitute a material change in circumstances regarding such reduction, (b) reaffirming the balance of the stipulation without the rejected sentence, or, (c) abandoning the stipulation and proceeding to contested trial on the issues raised by the cross-petition.

4. In order to assure proper progression, the matter is reassigned for trial on **Monday, June 11, 2001, at 10:45 a.m.** The time for trial on that date is limited to 10 minutes, and in the event a contested trial is necessary, will be reassigned for final pretrial conference before placement on the trial calendar.

5. This order does not affect the validity of the stipulation received as Exhibit 2. However, the court declines to enter an interlocutory decree thereon, and will consider the matter only after the full trial is completed on all issues.

6. No portion of the case remains under advisement following this reassignment for trial.

IT IS SO ORDERED.

Signed at O'Neill, Nebraska, on May 29, 2001.

DEEMED ENTERED upon the date of filing by the court clerk.

If checked, the Court Clerk shall:

- Mail a copy of this order to all counsel of record and to any pro se parties.
Done on _____, 20____ by _____.
- Note the decision on the trial docket as: [date of filing] Signed "Order Rejecting Stipulation and Reassigning for Trial" entered setting trial for [date and time from order].
Done on _____, 20____ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge