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NOV -6 2008

District Court, Mesa County, Colorado
125 North Spruce, Grand Junction, CO 81501

IN re:

- The MARRIAGE of:
- Parental Responsibilities Concerning

Petitioner: BRADLEY BROPHY

and

Respondent/Co-Petitioner: DONNA BROPHY

Bradley C. Hibberd, PC
 1525 Poplar Dr., Grand Junction, CO 81502
 Phone Number: (970)243-8865 E-mail: bradleychibberd@bresnan.net
 FAX Number: (970) 424-5007 Atty.Reg #:31308

PLEASE CONTACT ME
 BY BRADLEY C. LEWIS
 RE: PROPERTY/DEBT
 WORKSHEETS.
 SUPPOSED TO BE
 ON (1) SHEET - NOT
 (18)!
 CAN WE ELIMINATE
 AGREED ITEMS!?
 BCH

TRIAL MANAGEMENT CERTIFICATE

COMES NOW the Petitioner, Bradley J. Brophy, by and through his attorney of record, Bradley C. Hibberd, PC; and submits the following Trial Management Certificate.

I. CERTIFICATE OF COMPLIANCE

Counsel for Respondent sent over a "draft" of the TMC which did not comport with the Rules or Pre-trial Order. Before Petitioner could send over his "draft" copy to counsel for Respondent, he filed his own along with numerous pages of the Property/Debt Worksheet. Counsel and Petitioner have spent numerous hours reviewing Respondent's worksheets and now submit the following.

II. NATURE OF THE HEARING

Hearing on Final Orders is scheduled for November 10 and the relief requested by the Petitioner is as follows:

- A. The Petitioner requests that a decree of dissolution be entered herein. That he be awarded an equitable portion of the parties' assets, that debts be divided equitably. That he be granted sole allocation of parental responsibility and residential custody of the minor child. The Petitioner's position statement is attached hereto.

III. PRETRIAL MOTIONS: None

IV. STIPULATIONS AND UNDISPUTED FACTS:

HEARING: Counsel have agreed that the experts retained by the Respondent are qualified in their areas, for the purpose of expediting the hearing. The undersigned did not stipulate that the reports would be admitted for the truth of what is contained therein, nor waive his right to cross-

examine the respective expert.

THE MARRIAGE

1. Date and Place of Marriage: 3/23/1996, in Grand Junction, Colorado.
2. Date of Separation: 10/20/2007
3. Both parties were residents of Colorado for more than 90 days preceding the filing of the Petition.
4. One child was adopted of the marriage, to wit: Anthony R. Brophy
D-O-B 9/28/1997 [REDACTED]
4. The Respondent is not pregnant.

V. DISPUTED ISSUES AND SPECIFIC POINTS OF LAW

1. The first disputed issue is: Equitable Distribution of Property and debt
Petitioner's position is as follows: See attached Position Statement.
2. The second disputed issue is: Maintenance
Petitioner's position is as follows: See attached Position Statement.
3. The third disputed issue is: Allocation of Parental Responsibility and Parenting Time.
Petitioner's position is as follows: See attached Position Statement.
4. The fourth disputed issue is: Child Support
Petitioner's position is as follows: See attached Position Statement.

There are no citations to any unusual or significant points of law which would be relied upon other than the sections of the Uniform Dissolution of Marriage Act found at sections 14-10-101, Section 19-4-101 et. seq. and C.R.S. 14-13-101 et. seq. plus case law supporting said statutes

VI. WITNESSES

Petitioner's witnesses are:

See attached Position Statement.

VII. EXPERT WITNESSES

Respondent's expert witnesses were previously disclosed.

VIII. EXHIBITS

Will be prepared for hearing; all exhibits have been exchanged previously.

IX. FINANCIAL AFFIDAVITS AND CHILD SUPPORT WORKSHEETS

Both parties have previously filed their Financial Affidavits. The Petitioner requests that the Court take judicial notice of the Court file.

X. ALTERNATIVE DISPUTE RESOLUTION/MEDIATION

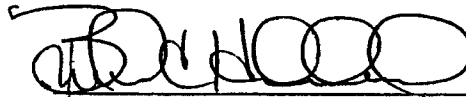
The parties participated in mediation with Hanneke Nelson prior to this hearing.

XI. OTHER MATTERS

None.

Respectfully submitted on November 5, 2008;

BRADLEY C. HIBBERD, PC



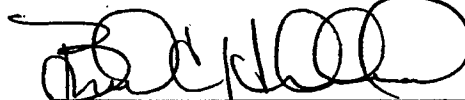
Bradley C. Hibberd, #31308
Attorney for Petitioner

CERTIFICATE OF DELIVERY

I hereby certify that on November 5, 2008, the foregoing **TRIAL MANAGEMENT CERTIFICATE** and attachments was filed with the Clerk of the Mesa County Combined Court, located at 125 N. Spruce St., Grand Junction, CO 81501, and a true and correct copy was *placed in the U.S. Mail, postage prepaid, and addressed as follows; or a copy was ** hand-delivered to:

**Dickie D. Lewis, Esq.
435 N. 8th Street
Grand Junction, CO 81501

BRADLEY C. HIBBERD, PC



Bradley C. Hibberd

PETITIONER'S POSITION STATEMENT

I. REAL PROPERTY:

There are two pieces of real property at issue; the first being the property located on Hickman Rd. in Palisade, the second being premarital property located in Wray, Colorado.

Hickman Road

Petitioner's position: The property located on Hickman Rd. was purchased by Greg Brophy, Travis Brophy, and the Petitioner (Brad Brophy) as a partnership investment. The amounts of those investments will be testified to at hearing. Throughout the years, the partners made adjustments to the title of the property to allow Brad and Donna to place a mobile home on the property, however, the understanding and documentation will show that Donna Brophy knew that she was only entitled to the residence and not the orchard property. A value will need to be determined on the residence to equitably split any equity or deficit which may exist. Currently the property has a lien against it for approx. \$265,000.00.

Wray, Colorado

Petitioner's position: The property located in Wray is in a four way partnership with Brad Brophy and three of his siblings, from the parties' father as a pre-inheritance. It was purchased for \$25,000 per partner. The parties have an Agreement that the property can not be sold until their father dies, and in no event shall it be sold outside the partnership. The parties may sell their respective share, only, to another partner for \$25,000.

II. PERSONAL PROPERTY

Petitioner's position: Attached hereto are the Property/Debt Worksheets. Contrary to the Pre-Trial Order (which directs that 1 (one) sheet will be used) the Respondent has supplied many. In order to attempt to expedite the process, the Petitioner has marked the items which are in dispute with a yellow highlighter.

The other issue is Petitioner's PERA account. Petitioner worked for CDOT. A majority of his retirement was earned prior to the marriage. Respondent may be entitled to a share of the retirement, but is not entitled to a pro rata share of the current retirement. A QDRO will need to be prepared after the Court determines her share from 1996 until the Petitioner retired in 2006. Respondent should only be entitled to the dollar amount vested between 1996 - 2006, not the increase in the total amount from 1996 - 2006, as she would benefit from any increase on the monies earned prior to the marriage.

III. MAINTENANCE

Petitioner's position: The Respondent is voluntarily unemployed. Respondent has chosen to not work and is fully capable of employment outside the home. Contrary to her assertion

that she must stay home to care for the child, Respondent has previously worked, both, outside the home and did in home day-care. She now stays with her mother, whom she testified she stayed home to care for. Respondent should be imputed income. Since the time that Respondent left Grand Junction, she has been provided \$13,983 in direct or indirect support from the Petitioner. In addition, she has received \$2,900 in tax refunds, and \$8,710.00 in adoption subsidy for a total of \$25,593. Respondent is also receiving food stamps and Medicaid from the State of Tennessee.

IV. ALLOCATION OF PARENTAL RESPONSIBILITIES

Petitioner's position: Based upon the criteria set forth in § 14-10-124, C.R.S., the Petitioner believes he should be granted sole allocation of parental responsibilities with parenting time to be determined based upon Respondent's residence. The Respondent has made allegations of sexual misconduct by the Petitioner which Petitioner denies those allegations. The Respondent has made numerous accusations over the years regarding sexual abuse by other children upon Ryan, her own sexual abuse and rape, ideations of fibromyalgia and cancer for which she smoked "medicinal marijuana," that the Petitioner had numerous affairs during the marriage, is an alcoholic, and finally, that the Petitioner was a homosexual.

Palisade is the child's home and is the only home that he knows. He has extended family here which has been cut-off during the Respondent's hiatus from the area. The Respondent does not encourage a relationship, and in fact discourages it.

The Petitioner believes that the Respondent is perpetuating Ryan's disability for her own benefit. While in Grand Junction, and under the care of the Petitioner, Ryan had made progress in all areas, but has regressed while under the complete care of the Respondent. It is in the best interest of the child that he be awarded residential custody

V. CHILD SUPPORT

Petitioner's position: Ryan receives \$670.00 per month from an adoption subsidy. The Respondent has been collecting this over the last year.

VI. EXPERT WITNESSES

None retained by Petitioner.

VII. LAY WITNESSES

1. The Petitioner may testify as to any matter of relevance.
2. The Petitioner may call the Respondent to testify as to any matter of relevance.
3. Mr. Jerry Fisher
1168 Mustang Ln

Delta, CO 81416

970-874-3738

Mr. Fisher is a former neighbor of the parties and may testify as to Petitioner's relationship with Ryan and his observations of him with Ryan.

4. Lisa Myers

26481 Rd 54

Holyoke, CO 80734

970-630-5637

Ms. Myers may testify as to her observation of Petitioner's relationship with Ryan; her observation of the Respondent's behaviors, and her knowledge of the 4B partnership.

5. Janet Brophy

22826 Rd 51

Wray, CO 80758

970-630-1111

Ms. Brophy may testify as to her observation of the parties and relationship with Ryan and her knowledge of the 4B partnership.

6. Jo Benson

674 26 Rd

Grand Junction, CO 81506

970-242-3209

Ms. Benson may testify as to her observations of the Petitioner and Ryan and his ability to parent and care for, his children.

7. Bruce and Denise Brown

133 E. 1st St.

Palisade, CO 81526

970-464-1080

Mr. and Mrs. Brown may testify as to their observations of the parties, the parties' home and the conditions which existed in the home, and their observations of the parties with Ryan.

8. Toby Brown

688 38 3/4 Rd

Palisade, CO 81526

970-464-9108

Mr. Brown may testify as to his observations of the parties' behaviors when he was present in the parties' home, the parties' respective relationship with, and observations of the parties with Ryan.

PROPERTY/DEBT WORKSHEET

Item Description	P's Value	R's Value	P's Position		R's Position		Sep or Mar Prop		DO NOT WRITE IN THIS SPACE				
			To P	To R	To P	To R	P's Pos	R's Pos	Ct	Dec Value	MF/SPF/SPR	Awarded to	Notes
1 Hitachi Excavator	0	12,000.00					BZ	Mar					
2 Yanmar Tractor	0	5,000.00					GE	Sep					
3 Tractor Attachments	0	5,000.00					GE	Mar					
4 99 Deere Cummins	8,500	8,500.00	X					Mar					
5 97 Ford Club Cab	2,500	1,000.00	X				SEP	Sep					
6 94 Ford Astor Van	1,000	1,000.00		X				Mar					
7 86 Suzuki AT	300	200.00	X					Mar					
8 86 Suzuki AT	300	300.00	X					Mar					
9 86 5th Wheel Camper	1,500	1,500.00		X				Mar					
10 80's Coasmar trailer	2,000	5,000.00		X				Mar					
11 91 No Flat bed trailer	0	3,000.00					GE	Mar					
12 80's mobil trailer	100	500.00	X				GE	Mar					
13 4 rifles	0	800.00	X				GE	Mar					
14 3 shot guns	0	600.00	X				GE	Mar					
15 4 hand saws	0	1,800.00	X				SG	Mar					
16 1 Browning rifle	Gift	Gift		X				Sep					
17 1 HR Hand gun	Gift	Gift		X				Sep					
18 Gun cabinet	0	100.00	X				SEE	Mar					
19 GIVING	10,000	50.00	X					Mar					
20 22 shells and for Browning	Gift	Gift		X				Sep					

PROPERTY/DEBT WORKSHEET

Item Description	P's Value	R's Value	P's Posith		R's Posith		Sep or Mar	Prop	DO NOT WRITE IN THIS SPACE									
			To P	To R	To P	To R			P's Pos	R's Pos	Ct Det Value	MF/SPP/SFR	Awarded to	Notes				
1 Austin Plan	0																	
100 coin collection	50.00	50.00	X					SEP										
2 electronic addresser	20.00	20.00	X					SEP										
4 chairs - Chest drawers	100.00	100.00	X					SEP										
upine beek shelf	10.00	10.00	X					SEP										
3 oak night stand	25.00	25.00	X					SEP										
6 pine office desk	100.00	100.00	X					SEP										
1 Moose head mount	10.00	10.00	X					SEP										
2 outdoor swing bench	300.00	300.00	X					MAR										
8 ped chest - table	75.00	75.00	X					MAR										
10 1/2 ft. table saw	75.00	75.00	X					MAR										
11 1/2 ft. table saw	75.00	75.00	X					MAR										
12 1/2 ft. table saw	100.00	100.00	X					SEP										
13 1/2 ft. table saw	300.00	300.00	X					MAR										
14 1/2 ft. table saw	75.00	75.00	X					SEP										
15 1/2 wheel trailer	100.00	100.00	X					MAR										
16 1/2 wheel trailer	150.00	150.00	X					MAR										
17 1/2 wheel trailer	100.00	100.00	X					MAR										
18 1/2 wheel trailer	50.00	50.00	X					SEP										
19 1/2 wheel trailer	20.00	20.00	X					MAR										
20 1/2 wheel trailer	200.00	200.00	X					MAR										

100 150

PROPERTY/DEBT WORKSHEET

Item Description	P's Value	R's Value	P's Position		R's Position		Sep or Mar Prop P's Pos	K's Pos	DO NOT WRITE IN THIS SPACE	
			To P	To R	To P	To R			Ct Dec Value	MT/SPT/SPR
1. leather sofa	1000.00	200.00	X	X	X	X				
2. leather recliner	1000.00	75.00	X	X	X	X				
3. leather love seat	1000.00	100.00	X	X	X	X				
4. leather sofa	1000.00	200.00	X	X	X	X				
5. coffee table	1000.00	50.00	X	X	X	X				
6. round table	1000.00	20.00	X	X	X	X				
7. 2 pillar floor lamp	40.00	40.00	X	X	X	X				
8. white floor lamp	20.00	20.00	X	X	X	X				
9. table top lamp	10.00	10.00	X	X	X	X				
10. metal wall clock	10.00	10.00	X	X	X	X				
11. 12 cherry album stand	25.00	25.00	X	X	X	X				
12. 12 photo albums			X	X	X	X				
13. album chest leather set	25.00	25.00	X	X	X	X				
14. wind chimes	5.00	5.00	X	X	X	X				
15. stereo cabinet	10.00	10.00	X	X	X	X				
16. shop vacuum	0	0.00	X	X	X	X				
17. wood burning stove	25.00	25.00	X	X	X	X				
18. drill bits	10.00	30.00	X	X	X	X				
19. riding lawn mower	1000.00	50.00	X	X	X	X				
20. Kubota tractor	1500.00	150.00	X	X	X	X				

WITH FILLER