

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF BLUE EARTH

FIFTH JUDICIAL DISTRICT
Case Type: Dissolution with children
Court File No. 07-FA-22-3533
Honorable Andrea J. Lieser

In Re the Marriage of:

Candace Marie Hottinger,

Petitioner,

and

Kenneth Robert Hottinger,

Respondent.

**PETITIONER'S NOTICE OF MOTION AND MOTION
TO COMPEL DISCOVERY AND FOR TEMPORARY AND OTHER RELIEF**

TO: THE ABOVE-NAMED RESPONDENT, KENNETH ROBERT HOTTINGER (RESPONDENT) AND HIS ATTORNEY OF RECORD, TARA MARIE FLOODING, DEWITT LLP, 2100 AT&T TOWER 901 MARQUETTE AVENUE, MINNEAPOLIS, MINNESOTA, 55402:

PLEASE TAKE NOTICE that on May 9, 2023, at 9:00 a.m., or as soon thereafter as the parties may be heard, before the Honorable Andrea J. Lieser, via Zoom, or alternatively in the Blue Earth County Courthouse, Petitioner will respectfully move the Court for the following relief:

1. **Custody and Parenting Time.** Awarding the parties temporary joint legal custody of the parties' minor children and granting Petitioner sole temporary physical custody of the minor children. Granting Respondent reasonable parenting time pursuant to a graduated schedule as follows:

For the First Six Weeks:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
4:30pm-9pm					10am-8pm	10am-6pm
	4:30pm-7:30pm			5:30 pm-8pm		

4:30pm-9pm					10am-8pm	10am-6pm
	4:30pm-7:30pm			5:30 pm-8pm		
4:30pm-9pm					10am-8pm	10am-6pm
	4:30pm-7:30pm			5:30 pm-8pm		

After Six Weeks:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
4:30pm-9pm				5:30 - overnight	All day	Return 6pm
	4:30pm-7:30pm					
4:30pm-9pm				6:00 - overnight	All day	Return 6pm
	4:30pm-7:30pm					

2. Communication and Interactions.

a. Ordering the parties to refrain from making disparaging remarks about each other in front of the children, questioning the children regarding the personal activities of the other party, discussing the divorce with the children except to answer questions asked by the children in a fair and impartial manner, or attempting to influence the children or make them take sides; and

b. Ordering that neither party make derogatory comments about the other or allow anyone else to do so in the children's presence; and

c. Ordering that neither party contact the children during school hours and between the hours of 10 p.m. and 7 a.m. except in case of emergency; and

d. Ordering that neither party shall smoke in a house or vehicle that the children are frequently in; and

e. Ordering that the parties shall have no unrelated adults spend the night at his or her home during their parenting time during the pendency of these proceedings.

3. **Child Support and Other Child Expenses.**

a. Ordering Respondent to pay temporary basic child support in the amount of \$1,833.00 per month and ordering said payments be made retroactive to September 1, 2022;

b. Ordering Respondent to be responsible for 68% and Petitioner to be responsible for 32% of the costs of any uninsured or unreimbursed medical, health, dental, eyecare, orthodontia, mental health, and other mental or health-related expenses for the minor children made retroactive to September 1, 2022; and

c. Ordering Respondent to pay 68% and Petitioner to pay 32% of the costs for activity and event fees for the children's extracurricular activities and events made retroactive to September 1, 2022.

4. **Spousal Maintenance.** Ordering Respondent to pay Petitioner \$2,866.00 per month in temporary spousal maintenance on the first of each month, beginning June 1, 2023.

5. **Home Equity Line of Credit.** Ordering Respondent to continue to be responsible for the Home Equity Line of Credit (HELOC) secured by the parties' homestead but paid for by the parties' business.

6. **Interrogatory Responses.** Ordering Respondent to provide full and complete answers to the interrogatories contained within Petitioner's Interrogatories, Requests for Admission, and Request for Production of Documents (First Set), dated January 10, 2023.

7. **Document Production.** Ordering Respondent to provide full and complete document production and responses to the requests for production of documents contained within

Petitioner's Interrogatories, Requests for Admission, and Request for Production of Documents (First Set), dated January 10, 2023.

8. **Interpersonal Communications; Our Family Wizard.** Ordering that except as to any necessary communication about the child during exchanges on in the case of an emergency requiring a telephone call, the parties shall only communicate in writing via Our Family Wizard (OFW) and ordering the parties to each establish an OFW Parent Account and immediately begin to utilize their OFW accounts via the website at OurFamilyWizard.com or via the OFW mobile applications for iOS or Android. Further ordering:

a. That the parties shall include the ToneMeter add-on with their OFW subscription. ToneMeter must be used when composing entries to encourage cordial and productive communication.

b. That the parties shall only utilize the OFW Message Board feature when information cannot be conveyed in the Calendar, Expense Log, Journal, and Info Bank features. Whenever any entry requires a response, the receiving parent shall respond within 24 hours unless the entry itself indicates that a longer time frame is acceptable. The parties shall take advantage of the Expense Log to record and formalize all potentially reimbursable expenses in order to mitigate the necessity of further litigation over such matters. An electronic file of the receipt must be attached to each expense entry.

c. That the parties must respond to the other within 24 hours to ensure proper coordination of parenting time, or in the case of parenting time exchanges, within a reasonable time to keep the other informed.

9. **Restraining Order.** Restraining Respondent from transferring, encumbering, concealing, or disposing of assets without the prior written consent of Petitioner and restraining

both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties and ordering that neither party shall engage in any act of harassment against the other as defined in Minn. Stat. § 609.748 Subd. 1(a)(1), whether in person, in writing, by phone call, text message, email, OFW, or through third persons.

10. **2022 Tax Return.** For an order permitting Petitioner to claim married filing separately tax filing status for 2022.

11. **Homestead.** Granting Wife temporary and exclusive possession of the parties' homestead and setting a reasonable timeframe for Husband to remove his agreed upon items from the property.

12. **Camper Sale Proceeds.** The sale proceeds from the sale of the parties' camper shall be divided as the parties agree or the court orders otherwise. Until such time, neither party shall utilize these funds for any purpose.

13. **Vehicles; Boat.** Ordering that each party is awarded temporary exclusive use of the vehicle in his or her possession; except that the parties' boat be sold with the proceeds held in escrow until further agreement or Court order.

14. **Attorney Fees.** Ordering Respondent to pay Petitioner's reasonable expenses incurred in connection with this motion, including attorney's fees and costs pursuant to Minn. R. Civ. P. 37.01(d); and

15. **Continuance of Trial.** For an order continuing the trial in this matter.

16. **Other Relief.** Ordering such further and additional relief as the Court deems fair, just, and equitable.

This motion is made pursuant to Minnesota Statutes, Minn. R. Gen. Prac. 303.01, Minn. R. Civ. P. 33.01(b), Minn. R. Civ. P. 34.02(c)(1), Minn. R. Civ. P. 37.01(b), and is based upon all the affidavits, files and records of the proceeding herein.

ALL RESPONSIVE PLEADINGS SHALL BE SERVED AND FILED WITH THE COURT ADMINISTRATOR NO LATER THAN SEVEN DAYS PRIOR TO THE SCHEDULED HEARING. THE COURT MAY, IN ITS DISCRETION, DISREGARD ANY RESPONSIVE PLEADINGS SERVED OR FILED WITH THE COURT ADMINISTRATOR LESS THAN SEVEN DAYS PRIOR TO SUCH HEARING IN RULING ON THE MOTION OR MATTER IN QUESTION.

The undersigned hereby acknowledges that sanctions may be awarded pursuant to Minn. Stat. § 549.211.

Dated this 11th day of April, 2023

/s/ Andrew M. Tatge

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