

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR  
CIVIL ACTION**

**IN RE: THE MARRIAGE OF:**

Goldstein, Boris  
Petitioner

vs

Herzberg, Beata  
Respondent

\_\_\_\_\_ /

Case No. **08-DR-005821**

**STANDING TEMPORARY ORDER FOR DISSOLUTION OF MARRIAGE  
ACTION WITH NO MINOR CHILDREN**

Revised 05/16/00

The court finds it is in the best interest of the parties for this standing order to be entered. On the court's own motion, it is ordered as follows:

1. CONDUCT OF THE PARTIES DURING THE CASE; SANCTIONS. Both parties shall not verbally harass each other in person or over the telephone, at home or at work. Any unwanted physical contact between a husband and a wife is a crime and is vigorously prosecuted by the state attorney. Failure to obey this order may result in restraining orders and contempt proceedings. Contempt of court is punishable by a sentence in the county jail. The parties and their lawyers are ordered to comply with the attached "Notice to All Lawyers and Parties in Family Court".
2. DISPOSITION OF ASSETS; ACCOUNTING. Neither party may conceal, damage or dispose of any asset, whether marital or nonmarital, and neither party may dissipate the value of an asset, for example, by adding a mortgage to real estate or by failing to take care of any asset. The parties may spend their incomes in the ordinary course of their personal and family affairs. Neither party may conceal, hoard or waste jointly owned funds, whether in the form of cash, bank accounts or other liquid assets, except funds may be spent for the necessities of life. The use of funds or income after separation must be accounted for and justified as reasonable and necessary for the necessities of the party or to preserve marital assets or pay marital debts. Both parties are accountable for all money or property in their possession during the marriage and after separation. Attorney's fees and costs are necessities and must be accounted for.
3. PERSONAL AND BUSINESS RECORDS/INSURANCE. Neither party may, directly or indirectly conceal from the other or destroy any family records, business records, or any records

of income, debt, or other obligations. Any insurance policies in effect at the time the petition herein was filed may not be terminated, allowed to lapse, concealed, modified, borrowed against, pledged or otherwise encumbered by either of the parties or at the direction of either party. All insurance policies of every kind may not be changed except by written agreement signed by the parties or order of the court. The parties shall continue to pay all premiums on a timely basis unless there is a written consent by both parties or an order of the court.

4. ADDITIONAL DEBT. Neither party will incur additional debt which would bind the other party nor tie up any assets, except by the written consent of the parties or order of this court. The parties are urged to temporarily stop using joint credit cards except for absolute necessities and only as a last resort. Neither party should make additional charges to joint credit cards. Joint credit cards may be used only for the necessities of life, and any party using a joint credit card after separation must be prepared to justify all charges as reasonable and necessary for necessities.

5. SANCTIONS FOR FAILURE TO COMPLY WITH COURT RULES. If a party fails to comply with the rules requiring the production of financial records and other documents, or fails to answer interrogatories or attend a deposition, or otherwise fails to comply with the rules requiring disclosure or discovery, that party will be sanctioned by an order requiring a minimum of \$250 to the other party.

6. SERVICE AND APPLICATION OF THIS ORDER. **The petitioner shall serve a copy of this order with a copy of the petition.** This order is binding on the petitioner upon the filing of this action and shall become binding on the respondent upon service of the order. This order shall remain in effect until further order of the court. Any part of this order not changed by some later order remains in effect. This entire order will terminate once a final judgment is entered.

7. ALTERNATIVE COOPERATION TRACK. In any dissolution of marriage action, the parties may elect to proceed under the "cooperation track." This option requires an agreement signed by the parties and their attorneys acknowledging that the terms of this paragraph are adopted by the parties. Any case that does not elect the "cooperation track" is automatically proceeding on the "litigation track". The parties can elect into the "cooperation track" at any time after responsive pleadings have been filed. A party can withdraw from the "cooperation track" at anytime, which will place the case automatically back in the "litigation track". There is no prejudice to a party electing the "cooperation track" and then withdrawing to the "litigation track." However, at any hearing on a motion for attorney's fees and costs, the court can receive any evidence of a failure to cooperate or tactics resulting in unnecessary litigation or delay, as allowed by law.

7.1. **The "cooperation track" must be initiated by the agreement of the parties and their attorneys.** Cases with unrepresented parties may not elect the "cooperation track". The "cooperation track" requires: (1) The attorneys must promptly communicate with each other on

all issues arising in the case and may not file a motion for any relief without first speaking lawyer to lawyer and attempting a resolution of the problem. (2) Counsel will also discuss the need for any experts, such as mental health professionals, financial experts, vocational rehabilitationists, and others. If they agree that an expert is needed, they shall agree on one expert in the particular discipline and the expert shall be a neutral source for both parties. The expert shall be able to communicate with both parties' attorneys and the attorneys may also be able to communicate to the expert. However, there should be no ex-parte communication between an attorney and an expert unless agreed or stipulated by the attorneys and the expert. (3) The attorneys will also discuss early mediation to resolve any and all issues and agree to attempt several mediation conferences, if needed, before noticing the case for trial. (4) Counsel must also cooperate to gather and share information and comply with the Family Rules regarding discovery.

7.2. **Financial expert.** Should both attorneys agree that a neutral financial expert should be involved, the parties and the lawyers shall stipulate and a court order shall be entered, appointing a qualified Certified Public Accountant or any other professional person agreed upon by the parties. The particular scope and responsibility of the neutral financial expert can involve fact gathering, financial analysis, and the preparation of work sheets setting forth assets, liabilities and income of the parties. The neutral financial expert may perform other roles and functions, as the attorneys and the parties specifically agree in writing, waiving any conflicts of interest, including mediation or arbitration. Compensation of the expert shall be stated in the stipulation and order of appointment which shall allocate the responsibility of the parties for payment. Upon written stipulation, the expert may give testimony but may not testify to anything discussed in mediation.

7.3. **Second opinions.** Either party may request a second opinion after any court appointed expert has rendered his or her opinion. In any case involving two experts giving opinions on the same issue, the parties must agree that the court will require the experts to communicate with each other and attempt to determine any differences of opinion and whether or not those differences can be defined, if not resolved.

7.4. **Case management conferences.** The attorneys may schedule case management conferences with the judge at any time to seek preliminary rulings upon the proffer of facts if the parties are in disagreement, as a means to enhance a settlement, or to discuss any issue in the case.

7.5. **Communication.** The attorneys shall not communicate with each other or anyone in the case intemperately or insultingly. Attorneys shall communicate personally with each other by telephone or in person if a problem exists before filing a motion. Talking to the other lawyer's secretary or office staff is not sufficient. The attorneys, appointed experts and the parties shall be courteous and respectful of everyone in the process. Conferences with the attorneys and parties are encouraged, as are conferences with the attorneys, parties and other professionals engaged as experts. Both parties and attorneys shall share documentary information in such a manner as to avoid duplication of work. Both attorneys shall promptly return all phone calls and respond to correspondence from the other attorney and any experts. When setting hearings, conferences and

depositions, an attorney may not schedule any matter without first coordinating the date and time with opposing counsel's office.

7.6. **Mediation** is encouraged early in the proceedings and prior to setting the case for trial. Several mediation conferences should be held in all cases when required and in order to accomplish a result that both parties fully understand and with which they are both comfortable, without any coercion or need to accomplish a result due to the pressure of an upcoming hearing.

7.7. **Litigation** may take place on the cooperation track, but it must be conducted courteously and cooperatively. The court recommends to all parties and attorneys engaged in family litigation to utilize all the "cooperation track" procedures even if this track is not elected. The court can sanction unprofessional and uncooperative behavior in any case, on either the "cooperation track" or "litigation track", and will award attorney's fees as required by law if either party or their counsel is found to have been unduly uncooperative, resulting in prolonged or needless litigation.

ORDERED in Fort Myers, Lee County, Florida.

5/28/2008

*Hugh E. Starnes (electronically signed)*

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**Hugh E. Starnes, Circuit Judge**  
**Administrative Judge, Family Law Division**

\*\*\*\*\*Original on file in the office of the Administrative Family Law Judge

### **NOTICE TO ALL LAWYERS AND PARTIES IN FAMILY COURT**

The following are the policies of family court. Read them carefully. All lawyers and parties are expected to know and obey these policies.

#### **1. COURTROOM CONDUCT AND BEHAVIOR**

**All courtroom proceedings shall be conducted with dignity, decorum, courtesy and civility.**

**1.1. Dress appropriately.** Court business is very important. People who do not dress or groom properly may give the wrong impression. Their dress and appearance may show a lack of interest in the case or a lack of respect for the court. Shorts, tank or halter tops, undershirts, and caps or hats are forbidden. Judges may ban persons who are not appropriately dressed.

**1.2. Speaking and talking.** A court proceeding is not a free-for-all where anyone, parties and lawyers can say whatever they want whenever they feel like it. A party who is called as a witness must answer only questions asked and may not volunteer information or make argument while testifying.

Parties may not talk unless they are directed by the judge or a lawyer to speak, and then they may speak only to the judge or a lawyer. A party must never talk directly to the other spouse in court. Judges may remove anyone who hinders the orderly conduct of business from the courtroom, including parties and lawyers.

Interruptions, sarcasm, and insults will not be tolerated. Do not start arguments with or threaten anyone.

**1.3. Disruptive behavior.** While it is not unusual that parties may be upset when they come to court, all parties are expected to keep their anger and behavior under control in the courthouse and everywhere else.

It is improper to make any kind of physical gesture or facial expression that shows sarcasm, disbelief or disrespect.

## **2. APPEARING IN COURT WITHOUT A LAWYER**

**A "Pro Se" Litigant, a party without a lawyer, is not entitled to special treatment or privileges, and must follow the same rules of procedure and ethical regulations that govern practicing lawyers.**

**2.1. The court must treat a pro se party the same way it treats a lawyer.** Pro se litigants, although expected to be as skilled and knowledgeable as lawyers, are nevertheless subject to all laws, rules and regulations of the court and lawyer.

Judges and their assistants are forbidden by law from giving any advice or help to unrepresented parties. Judges and their assistants must remain entirely neutral and impartial. Judges and their assistants also may not give unrepresented parties special treatment.

**2.2. What judges and their assistants cannot do.** Neither the judge nor the judge's assistant can give a pro se litigant legal advice, practice tips or help in preparing court papers. Most questions that ask how to do something cannot be answered by the judge's assistant or the judge and should not be asked.

The Family Division of the court has a Pro Se Litigant Program, telephone 239-335-2247, which can answer some questions and offer some guidance. The program staff is not the lawyer for an unrepresented party, a legal advisor, or a secretarial service for an unrepresented party.

**2.3. Contact with the judge's office.** A pro se party is authorized to contact the judge's office by telephone to set hearings on the court's schedule. Personal visits to the office are discouraged because it disrupts the working routine in the office. Judicial Assistants assist judges; it is not their job to advise or assist the parties with their case.

If any party telephones the Judicial Assistant and persists in talking about unauthorized subjects after being warned, Judicial Assistants are instructed to hang up the telephone. All requests to speak to the judge on the telephone or have a private conference will be refused. If a party has a matter to be considered, a motion and notice of hearing must be filed in the court file by delivery to the clerk of the court and a copy of the motion and notice of hearing must be sent to the other party or the other party's lawyer, if the other party has a lawyer. Letters should not be written to the judge. All letters addressed to the judge are filed in the court file and copies are sent to the parties. The judge can only consider motions filed in the court file, copies of which have been delivered to all other parties in the action with a notice of hearing, and can receive evidence about a case only at a hearing in the courtroom with all parties notified of the hearing.

**2.4. "Emergency" Motions.** This Standing Order handles most of the "emergency" situations arising in divorce actions. Nevertheless, if either party feels he or she has an "emergency" requiring immediate action, the party or their counsel must file a motion for emergency relief, serve a copy of the other party, and deliver or fax a copy to the court. The court will decide if the matter is an emergency by reading the motion. If it is an emergency, expedited hearing time will be given. If it is not an emergency, a hearing may be scheduled like any other matter, that is, "first come, first serve" for the time available on the court's docket.