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*Attorney for Marcus Powell*

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**IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

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In the Matter of the Marriage of:

MARCUS POWELL

and

WHITNEY POWELL

**DECREE OF DIVORCE**

Case No. 234905589

Judge Heather Brereton

Commissioner Michelle Tack

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This matter having been submitted to the Court upon Petitioner's *Verified Petition for Divorce* setting forth jurisdiction and grounds, the parties having signed a *Stipulation and Settlement Agreement* ("Stipulation") agreed to after mediation, resolving all claims between the parties, and the Court having reviewed the files and records herein and being otherwise fully advised in the premises, and the Court having made and entered its *Findings of Fact and Conclusions of Law*, now therefore,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

1. The parties are awarded a divorce from one another breaking the bonds of matrimony now existing between them.

2. Residency. Petitioner is a bona fide resident of Salt Lake County, State of Utah, and has been for three months immediately prior to the filing of this action.

3. Marriage Statistics. The parties were married on January 8, 2013 in Salt Lake, Utah, and are presently married.

4. Grounds. The parties are presently married and are obtaining a divorce. During the course of the marriage the parties have experienced difficulties that cannot be reconciled that have prevented the parties from pursuing a viable marriage relationship. This decree of divorce shall be granted on the basis of irreconcilable differences of the parties pursuant to Utah Code Ann. §§ 30-3-1(3)(h) (1953 as amended).

5. Children. The parties are the legal parents of the following children under Utah's Uniform Parentage Act, Utah Code 78B-15-101 *et seq.* This court has jurisdiction to determine the issues related to the children in this divorce action because the parties became the legal parents of the children prior to or during the time the parties were married. Pursuant to Rule 4-202.09 of the Utah Code of Judicial Administration the names and birth dates of the children are being submitted to the court on the Non-Public Information - Minors form. The initials, birth month, and birth year of each child are:

<b><i>Child's Initials</i></b>	<b><i>Birth Month and Year</i></b>
Z.A.P.	09-2013
B.G.P.	12-2015

6. Uniform Child Custody Jurisdiction and Enforcement Act. Pursuant to Utah Code 78B-13-101 *et seq.*, Utah has jurisdiction over the custody and parent-time issues in this case, pursuant to Utah's Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) because Utah is the home state of the parties' minor children or Utah was the home state of the minor

children six (6) months prior to the commencement of the proceeding, and/or this case meets the criteria under Utah Code 78B-13-201(1), 207, and 208.

7. Children – Rule 100. Pursuant to Rule 100 of the Utah Rules of Civil Procedure, The Uniform Child Custody Jurisdiction and Enforcement Act, Utah Code Ann. §78B-13-101 *et seq.* and The Uniform Interstate Family Support Act, Utah Code Ann. §78B-14-101 *et seq.*, Petitioner states upon information and belief that:

- a. There are no proceedings in a court of law or governmental agency for custody, child support, parent-time or visitation concerning the parties' minor children which have been filed, or are pending, or have been completed with an order.
- b. The parties are unaware of any criminal, delinquency, or protective order cases involving a party or the parties' children.
- c. The parties are unaware of any person who is not a party to these proceedings who has physical custody of the parties' minor children and who claims to have custody, child support, and/or parent-time or visitation rights with respect to the children.

## **PARENTING PLAN**

### ***Joint Physical Custody / Parent-Time***

8. Custody. The parties are awarded joint physical and legal custody of their minor children, as set forth herein.

9. Parent-time. Parent-time with the children shall be at reasonable times and places as the parties may agree. If the parties cannot agree, the parties shall work together to maximize both parents parent-time to exercise as close to a 50/50 as possible. Mother shall have every weekend with the children, extended breaks, and extra time in the summer to maximize the parent-time.

**10. Holidays.** The holidays shall be as the parties agree. For spring break 2024, Mother shall have the minor children. If the parties cannot agree, the holidays will be according to Utah Code §30-3-35, as follows:

<b><i>Holiday</i></b>	<b><i>Holiday Time Period</i></b>	<b><i>Odd Years</i></b>	<b><i>Even Years</i></b>
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9:00a.m. if school is not in session and the parent can be with the child; or (b) the time that school is regularly dismissed; or (c) 6:00p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7:00p.m. on the day before school resumes.	Father	Mother
President's Day	(1) Holiday begins Friday at: (a) 9:00a.m. if school is not in session and the parent can be with the child; or (b) the time that school is regularly dismissed; or (c) 6:00p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7:00p.m. on the day before school resumes.	Mother	Father
Spring Break	(1) Holiday begins at 6:00p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7:00p.m. on the day before school resumes.	Father	Mother
Memorial Day	(1) Holiday begins Friday at: (a) 9:00a.m. if school is not in session and the parent can be with the child; or (b) the time that school is regularly dismissed; or (c) 6:00p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7:00p.m. on the day before school resumes.	Mother	Father
Mother's Day	(1) Holiday begins on Mother's Day at 9:00a.m. (2) Holiday ends on Mother's Day at 7:00p.m.	Mother	Mother
Father's Day	(1) Holiday begins on Father's Day at 9:00a.m. (2) Holiday ends on Father's Day at 7:00p.m.	Father	Father
Independence Day	(1) Holiday begins on July 3rd at 6:00p.m. (2) Holiday ends on July 5th at 6:00p.m.	Father	Mother

Pioneer Day	(1) Holiday begins on July 23rd at 6:00p.m. (2) Holiday ends on July 25th at 6:00p.m.	Mother	Father
Labor Day	(1) Holiday begins on Friday at: (a) 9:00a.m. if school is not in session and the parent can be with the child; or (b) the time that school is regularly dismissed; or (c) 6:00p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7:00p.m. on the day before school resumes.	Father	Mother
Columbus Day	(1) Holiday begins at 6:00p.m. on the day before Columbus Day. (2) Holiday ends at 7:00p.m. on Columbus Day.	Mother	Father
Fall Break	(1) Holiday begins at 6:00p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7:00p.m. on the day before school resumes.	Father	Mother
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4:00p.m. if there is no school. (2) Holiday ends at 9:00p.m. on the same day the holiday begins.	Mother	Father
Veterans Day	(1) Holiday begins at 6:00p.m. on the day before Veterans Day. (2) Holiday ends at 7:00p.m. on Veterans Day.	Father	Mother
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6:00p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends at 7:00p.m. on the night before school resumes.	Mother	Father
Winter Break (First Half)	(1) Holiday begins at: (a) 6:00p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7:00p.m.	Father	Mother

Winter Break (Second Half)	(1) Holiday begins on December 27th at 7:00p.m. (2) Holiday ends at 7:00p.m. on the night before school resumes.	Mother	Father
Day of Child's Birthday	(1) Holiday begins at 3:00p.m. (2) Holiday ends at 9:00p.m.	Mother	Father
Day Before or After Child's Birthday	(1) Holiday begins at 3:00p.m. (2) Holiday ends at 9:00p.m.	Father	Mother

### ***Joint Legal Custody***

**11. Joint Legal Custody.** The parties shall have joint legal custody. Both parties will have access to the child's school, church, and other records and will include the other party as the parent on such records. The major decisions concerning their children's general welfare, education, discretionary medical treatment, and religious training shall be mutually agreed to by both parties. In the event, the parties do not mutually agree regarding the children, the parties will mediate before court intervention. Both parties shall have the authority to make routine decisions regarding the children's day-to-day activities when the children are in his or her care.

**12. School Decisions.** The children shall continue to attend their current schools and feeder schools, unless otherwise mutually agreed upon by the parties in writing. Both parties shall be listed on school records. Both parties shall be listed for any emails given by teachers or respective school administrators.

### ***Communication***

**13. Communication.** The parties will discuss all parenting concerns via e-mail or text at any time needed and will not use their children to deliver messages. The parties will use phone or text contact for emergencies or changes on the day of the exchange.

**14. Telephone and Virtual Contact with Children.** Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the children, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.

Telephone contact shall be at reasonable hours and for a reasonable duration. The children shall be able to contact the parents at any time.

#### ***Miscellaneous Parenting Provisions***

**15. Relocation.** If either party moves more than 150 miles, the parties will be bound by Utah Code §30-3-37.

**16. Travel.** When the children travel with either parent overnight, all of the following will be provided to the other parent:

- a. An itinerary of travel dates;
- b. Destination;
- c. Places where the children or traveling parent can be reached; and,
- d. The name and telephone number of an available third person who would be knowledgeable of the children's location.

**17. Notification of Children's Events.** The parties shall take affirmative steps to share school and activity information concerning their children with each other on a frequent basis. The parties shall notify each other of any school programs, extracurricular activities, and sporting events their children may be involved in.

**18. Special Events.** Special consideration shall be given by each parent to make the children available to attend family functions, including funerals and weddings, and other significant

events in the life of the children or in the life of either parent which may inadvertently conflict with the visitation schedule.

**19. Mutual Restraining.**

- a. Both of the parties are permanently enjoined from saying or doing anything in the presence of the minor children of the parties (or in such a manner that the children may become aware of the party's comments or actions, including, but not limited to, any and all social media posts, blog posts, or other electronic format) to convey any negative information, beliefs, feelings, etc. regarding the other parent, or doing or saying anything that would, in any way, harm the relationship between the children and the other parent; both parents are ordered to encourage the creation and maintenance of a strong and healthy relationship between the other parent and the children.
- b. The parties are further enjoined from discussing custody or this divorce action with the children in any way or in such a manner that the children may become aware of the party's comments or actions, including, but not limited to, any and all social media posts, blog posts, or other electronic format.
- c. The parties shall not make disparaging remarks to one another or to their children about one another or in the child's presence, either verbally, in writing, or otherwise. Both parties are mutually restrained from harassing or threatening the other party.
- d. The parties shall not allow third parties to act in any way that they themselves are prohibited from acting, and shall remove the children from any situation in which the other parent is being disparaged in any way.

**20.** First Right of Refusal. Each parent will have first option to provide care for the child over any other third party if the parent responsible for the child is not available overnight during their custodial time and the other parent is personally available and willing to provide the care and the transportation.

**21.** Dispute Resolution. If the parties have any future disagreement pertaining to their children generally or over the terms or implementation of this agreement, they shall seek the assistance of a mutually agreed upon third party or mediator before either of the parties initiates legal action. The parties both agree, however, that either of the parties may seek emergency relief from the court in the future should an emergency arise which would make formal negotiation not practical.

**22.** Activity Costs. Each party shall be ordered to assume and be responsible for fifty percent (50%) of any out-of-pocket amount incurred for any mutually agreed-upon in writing extracurricular activities that the minor children may be involved in. The parties shall pay the providers directly if possible. If it is not possible, the party incurring the extracurricular activity out-of-pocket costs shall submit to the other party verification of the incurred expense, such as a receipt or an invoice, within thirty (30) days of payment or receiving the same and shall be reimbursed by the other party within thirty (30) days of receiving the verification of incurred expenses. A party who incurs an expense for a child's extra-curricular activity without receiving prior consent from the other parent shall be solely responsible for that expense. If a parent enrolls a child in an activity without the other parent's consent, the activity shall not infringe on the other parent's parent-time and the enrolling parent shall pay the full cost.

23. Transportation for the Children. The parties will utilize school-to-school or childcare exchanges when possible. If school to school exchanges are not possible, the receiving parent will provide the transportation unless otherwise mutually agreed upon.

## **FINANCIAL ITEMS AND ASSET DISTRIBUTION**

24. Child Support. Child support shall be calculated as according to Utah Code Ann. §78B-12-201 et seq. Mother's gross monthly income is \$3293.00 per month. Father's gross monthly income is \$7305.00 per month. Mother has 183 overnights and Father has 182 overnights for the purpose of child support calculation on the Joint Physical Custody Worksheet. Father's child support obligation shall be \$346.00 per month however the parties agree to an upward deviated amount of child support. Father shall pay Mother \$500.00 in child support per month. Child support shall commence April 1, 2024. Unless the Court orders otherwise, support for each child terminates at the time and shall automatically adjust when: (1) a child becomes 18 years of age or has graduated from high school during the child's normal and expected date of graduation, whichever occurs later; or (2) a child dies, marries, becomes a member of the armed forces of the United States, or is emancipated. The child support is payable one-half on the 5th day of each and every month, and one-half on the 20th day of each month.

25. Medical/Dental Expenses. The party who can obtain the best coverage at the most reasonable cost will obtain insurance for the medical expenses of the minor children in accordance with U.C.A. §78B-12-212. Father is currently providing said insurance.

a. 2Each parent shall share equally the out-of-pocket costs of the premium actually paid by a parent for the child's portion of insurance. The child's portion of the premium is a per capita share of the premium actually paid. The premium expenses for the

children shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case. This amount shall be automatically deducted from or added to the child support paid or owed.

b. 3Each parent shall share equally all reasonable and necessary uninsured medical, dental, orthodontia, eye care, counseling, prescriptions, deductibles, and copayments, incurred for the dependent children and actually paid by the parents.

c. 4The parent who incurs medical and dental expenses may provide written verification of the cost and payment of medical and dental expenses to the other parent within thirty (30) days of payment. The other parent will remit payment within thirty (30) days of receipt of the verification. If neither party is able to secure said insurance at a reasonable cost, each party shall be responsible for the payment of one-half of all reasonable and necessary medical and dental expenses for the minor children as indicated.

d. If, at any point in time, the dependent children are covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of Father shall be primary coverage for the dependent children and the health, hospital, or dental insurance plan of Mother shall be secondary coverage for the dependent children. If a parent remarries and his or her dependent children are not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of

the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent children.

**26.** Childcare Expenses. The parties shall adopt Utah Code Annotated §78B-12-214, and each parent shall equally share the reasonable work-related childcare expenses for the minor children.

**27.** Dependency Exemption. The parties will share the dependency exemption for the minor children as follows:

a. While there are two minor children, the parties will each receive one child as a dependency exemption. Mother will claim the oldest child and Father will claim the youngest child.

b. When there is only one minor child, the parties will alternate the dependency exemption for the minor child. Mother will be entitled to claim the minor child as a dependency exemption for odd-numbered tax years, and Father will claim the minor child as a dependency exemption for even-numbered tax years.

c. Father is entitled to claim the dependency exemptions indicated herein as long as (s)he is current on his child support obligation by December 31st of any tax year.

**28.** Taxes. The parties will file joint tax returns for 2023. The parties will equally share in any cost of preparation of taxes. The parties will equally share any tax refund.

**29.** Real Property. The marital property located at 8667 West Titanium Drive, Magna Utah 84044 will be awarded to Father with all debts and liabilities. Father shall hold Mother harmless on all debts and liabilities associated with the home. Father will refinance the 2<sup>nd</sup> mortgage on

the home within twelve (12) months. Father shall be awarded 100% equity in the home based upon a full global resolution herein.

**30. Personal Property.** During the relationship, the parties have acquired personal property. Said personal property of the parties shall be distributed such that the person receiving the item shall be responsible for any associated debt with the item. The division shall be as follows:

<b><i>Item Description:</i></b>	<b><i>Awarded To:</i></b>
Mother's car	Mother
Mother's personal belongings including pictures and keepsakes	Mother

a. Each party is awarded their own personal property and effects and that property which is now in their individual possession or under their individual control, except as indicated within the Stipulation.

**31. Debts.** The parties acquired debts during the marriage. Each party will assume, indemnify, and hold the other harmless from liability on, the following debts:

<b><i>Debt Description:</i></b>	<b><i>Obligation Of:</i></b>
Prime Visa	Father
Capital One (6792)	Father
Capital One (8577)	Father
Credit One	Mother
Credit One	Mother
Any Judgments in Mother's name	Mother

a. Accumulation of Debt. Neither party will incur any additional liability on joint credit cards.

b. Other Debts. The parties are aware of no other joint debts not otherwise addressed in this agreement and each shall pay any and all separate debts in their own names. Should other joint debts be later discovered, it is just and proper that the person

responsible for incurring the debt shall be responsible for paying it. Furthermore, the parties shall hold the other harmless in the event of their refusal in payment of any joint obligation.

c. Delinquency in Payments. If either party is obligated on a joint-secured debt, the payment of that debt must remain current. In the event that a payment is not paid in a timely manner, the secured asset must be placed immediately on the market for sale in order to protect the joint debtors. A party who makes payment on a delinquent debt in order to protect his or her credit rating, may seek reimbursement of the payment of that debt in addition to interest and attorney's fees from the other party.

32. Checking and Saving Accounts. Each party will be awarded monies in their own separate checking and savings accounts.

33. Retirement Accounts. Mother shall be entitled to \$78,000 in Father's retirement account. Father shall prepare a QDRO transferring this account to Mother.

34. Name. Mother will have the option of restoring her name to Whitney Weight.

35. Alimony. Neither party shall be awarded alimony. Both parties waive and relinquish the right to receive alimony from the other both now and in the future.

36. Property Settlement. Father shall pay Mother a property settlement of \$22,000 within one (1) year from the date of the Stipulation. Father shall pay Mother a minimum of \$500.00 per month until this amount is paid in full.

37. Deeds and Titles. Both parties shall sign whatever documents are necessary to transfer title and quit claim deeds or any other documents necessary that are outlined in this *Decree of Divorce* and are necessary to implement this *Decree of Divorce*.

**38. Full Disclosure.** The parties each indicate that there has been a complete accurate and current disclosure of all income, assets, and liabilities. Both parties understand and agree that any failure to provide complete disclosure may constitute perjury. The property referred to in this agreement represents all the property which either party has any interest in or right to, whether legal or equitable, owned in full or in part by either party, separately or by the parties jointly.

**39. Attorney's Fees and Costs.** Each party shall be ordered to assume his or her own costs and attorney's fees incurred in this action.

**\*\*\*END OF DECREE OF DIVORCE\*\*\***

***Pursuant to Rule 10(e) of the Utah Rules of Civil Procedure, the Court's Signature Appears at the Top of the First Page.***

STIPULATED AS TO FORM AND SUBSTANCE:

**YORK HOWELL**

/s/ Daniel B. Garriott

Daniel B. Garriott

*Attorney for Marcus Powell*

/s/ Whitney Powell\*

Whitney Powell

(\*Signature affixed by filing attorney with written permission via email dated 3/28/24 at 11:04 a.m.)

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 26th day of March, 2024, I caused a true and correct copy of this **DECREE OF DIVORCE** to be electronically filed with the Court which provided electronic notification to all parties by operation of the Court's electronic filing system, and caused a true and correct copy of this **DECREE OF DIVORCE** to be emailed to the following:

Whitney Powell

**YORK HOWELL**

*/s/ Daniel B. Garriott*

Daniel B. Garriott  
*Attorney for Marcus Powell*