



Dustin D. Gibb (13220)
GIBB LAW FIRM, P.C.
610 N. Kays Dr., Suite 109
Kaysville, UT 84037
Telephone: (801) 725-6035
Email: dustin@gibblawfirm.com
Attorney for Petitioner
12-207-0305

E 3562411 B 8449 P 587-603
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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DEP MEC REC'D FOR JOSE
MENDOZA

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

In the Matter of the Marriage of:

MARCELA MENDOZA,

and

JOSE MENDOZA.

DECREE OF DIVORCE

Civil No. 234700903

Judge Cornish
Commissioner Wilson

The Parties signed a Stipulation and Agreement on the 18th day of September, 2023. The Court having reviewed the Petitioner's Declaration of Jurisdiction and Grounds in support of the Decree of Divorce as well as the Stipulation on file herein, having previously entered its written findings of fact and conclusions of law, and for good cause otherwise appearing, does hereby **ORDER, ADJUDGE AND DECREE AS FOLLOWS:**

- Decree of Divorce.** That the bonds of matrimony and the marriage contract between the parties are now dissolved and the parties are awarded a Decree of Divorce from each other, the same becoming final upon entry by the Court.

2. **Jurisdiction and Grounds.** Jose is a bona fide and actual resident of Davis County, State of Utah, and has been for more than three months immediately prior to the commencement of this action.

That Marcela is a resident of Davis County, State of Utah and has been for more than three months immediately prior to the commencement of this action.

3. That the acts complained of that constitute the basis for this divorce occurred in Davis County, State of Utah, and the parties resided together as husband and wife. Therefore, pursuant to Utah law this Court has jurisdiction over the parties.

4. That Jose and Marcela were legally married on or about April 9, 2005, in city of Phoenix, Maricopa County, State of Arizona and are now and have been since that time husband and wife.

5. That the grounds for this divorce are that irreconcilable differences exist making the continuation of this marriage impossible.

6. **Alimony.** That both of the parties are capable of supporting themselves therefore it is fair and reasonable that neither party should be awarded alimony.

7. **Child Custody and Support.** That there have been two (2) children born or adopted as issue of this marriage. Pursuant to Rule 4-202.02 of the Utah Rules of Judicial Administration, the names and birthdates of the children are being submitted to the court on the NON-PUBLIC INFORMATION-MINORS form. The initials, birth month, and birth year of the children are: T.J.M., born January 2006; and L.J.M born September 2008.

8. **UCCJEA Jurisdiction – Home State of Children.** Utah should have jurisdiction over the child custody and parent-time issues in this case pursuant to Utah's Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), U.C.A., §78B-13-101, *et. seq.* Utah is the home

state of the children. The children have resided in Utah for at least six (6) consecutive months immediately preceding the commencement of this action; the children and at least one parent have a significant connection with Utah; and substantial evidence is available in Utah concerning the children's care, protection, training and personal relationships.

9. Rule 100 Information – Other Proceedings Involving the Children. Pursuant to Rule 100, Utah Rules of Civil Procedure, the UCCJEA, and the Uniform Interstate Family Support Act, U.C.A., §78B-14-101 *et seq.*, that:

- a. Neither has not been a party or witness to, or participated in any other litigation concerning the custody, child support or parent-time of the parties' minor children nor does either have information about any custody, child support or parent-time proceeding concerning the minor children in this state or any other state or country.
- b. There are no criminal or delinquency cases in any court of this state or any other state or country in which a party or a party's child is a defendant or Marcela.
- c. There are no proceedings currently pending against the parties that could affect this proceeding.
- d. There are no cases involving the parties' minor children filed or pending in any Juvenile Court in this state or any other state or country.
- e. Neither party knows of any person, not a party to these proceedings, who has physical custody of the parties' minor children and who claims to have

custody, child support, or parent-time or visitation rights with respect to the minor children.

10. The minor children presently reside the parties in Davis County, State of Utah.
11. The minor children have resided, within the past five (5) years with Jose and/ or Marcela in Davis County, State of Utah.
12. The parties are awarded joint physical custody of the minor children on an equal 50/50 basis. Parent time shall be as the parties can agree or if they cannot agree on a week on/ week off basis with exchanges on Monday mornings.
13. That the parties are fit and proper persons to be awarded joint legal custody of the parties' minor children.
14. **Parenting Plan.** In accordance with the provisions of Utah Code Annotated §30-3-10.8, the parties shall abide by the following parenting plan:
 - a. The parents shall timely exchange information with each other concerning the health, education, and welfare of the children, and where reasonably possible, confer before making decisions concerning any of these areas.
 - b. The parents shall discuss with each other and mutually make the significant decisions regarding the children, including, but not limited to, the children's present and future physical care, support, education, health care, and religious upbringing.

c. The decisions made by the parents either mutually or individually should minimize the disruption of a children's attendance at school and other activities, the children's daily routine, and the children's association with friends.

d. Any parental duties or rights not specifically addressed in this Parenting Plan should be discussed and mutually decided by both parents.

e. Should the parties have a dispute regarding parenting of the children, they shall first consult with a professional in the area of the dispute. If they still cannot agree they shall attempt a good faith mediation, with each party paying one-half of the mediator's expenses. If the parties still cannot agree, either party may bring the issue to the court.

f. No dispute may be presented to the court in this matter without a good faith attempt by both parents to resolve the issue through mediation, unless both parents agree in writing on a different method of dispute resolution, which may include mediation, arbitration, or court review. Should both parents agree in writing on mediation or arbitration as a method of dispute resolution, there must be a written agreement to be binding or an arbitration record and decision and no dispute may be present to the court in this matter without a good faith attempt by both parents to resolve the issue through the mutually agreed on method of dispute resolution. However, this provision shall not prevent either from taking emergency measures or filing a Motion to Enforce.

g. If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney's fees and financial sanctions to the prevailing parent. If a dispute is brought before the court and here is no finding of "use or frustration of the dispute resolution process without good reason," the court may order that costs be shared equally and that each parent pay that parent's own attorney's fees, or in the court's discretion the court may award costs and attorney's fees to the prevailing parent. The court has the right of review from mediation, counseling, or arbitration.

h. If the parent in physical custody at the time needs a person to provide temporary surrogate care for the children overnight, the non-custodial parent should be considered to have the first opportunity to care for the children for the period needed. The parent exercising said right of first refusal should provide all transportation related to his/her exercise of said right.

i. Both parties should execute any medical releases necessary to allow the other party to obtain access to medical, dental, orthodontic, optical, and psychological or psychiatric records of the children.

j. Both parties should provide the other party with the name, address and telephone number of every educational institution the children attend, and each party should be entitled to any school records and reports concerning the children. The parties should execute any releases required for the release to the other parent of such information

k. Each parent may make decisions regarding the day-to-day care and control of the children while the children are residing with that parent. Further each parent may obtain emergency medical treatment for the minor children and should immediately notify the other parent of any such medical emergency and medical emergency treatment.

l. The parties should work together and accommodate reasonable requests to modify or alter the parent-time schedule due to changes or fluctuations in the parties' respective employment schedules.

m. The parties should cooperate with one another in obtaining and maintaining passports for the minor children. Marcela should keep the children's passports in his possession. In the event Jose wishes to internationally travel with the children, Marcela should provide Jose with the children's passports and Jose should return the passports to Marcela upon his and the children's return. The parties should also cooperate and accommodate one another in facilitating the children traveling with the other parent.

n. Unless agreed to by the parties in writing, the children shall stay in their current school and school trajectories.

15. Should there be any question or issue between the parties as to the parties' parent-time schedule, time allotments for holidays, special occasions, and the like, the rights set forth under Utah Code Annotated §30-3-35.1 should govern with Jose being awarded the holidays for the custodial parent.

16. In addition to said parent-time schedule, all parent-time arrangements between the parents set forth as “advisory guidelines” under Utah Code Annotated §30-3-33, should be mandatory and should be made a part of the Decree of Divorce.

17. Should either parent decide to move from the State of Utah or 150 miles or more from the residence of the other party, that parent should provide reasonable advance written notice of the intended relocation to the other parent pursuant to Utah Code Annotated §30-3-37.

18. Both parties should be ordered not to consume any illicit drugs nor consume alcoholic beverages to an excess while caring for the minor children, nor consume any alcoholic beverages for a period of not less than twelve (12) hours before driving with the minor children. They should additionally be ordered not to allow third parties to be intoxicated or use illicit drugs while in the presence of the children and should be required to remove the children from the presence of any such person immediately.

19. Both parties should keep the other party apprised of their telephone number and address at all times. If, at any time, either party intends to change their residence and/or telephone number, they should notify the other as soon as they are aware that such a change will occur and should, not later than the occurrence of said change, notify the other of the new address and/or telephone number.

20. Neither party shall permit Fransico Bergero to be alone with the minor children.

End of Parenting Plan

21. **Child Support.** Jose is retired, but has the ability to earn a gross monthly income similar to Marcela. Marcela is employed and earns a gross monthly income of at least \$3,088. Based

upon the parties' incomes and the 50-50 parent-time arrangement, the ordered child support would be nominal, and therefore, child support is presently temporarily suspended until further order of the court. Should there be a substantial and material change of circumstances, either party may file a petition to modify child support. Nothing in this Decree is intended to prohibit or interfere with the right of either party to seek an adjustment or modification of child support in the future pursuant to any available statutory authority. Should the temporary suspension of child support be lifted in the future, child support should terminate upon the minor children's emancipation or reaching the age of eighteen or graduating from high school during the normal and expected year of graduation, whichever is later. There are no child support arrear.

22. The parties should equally share the children's school expenses and car insurance for the children through the age of emancipation.

23. Given the children's ages and maturity, child care expenses are not applicable.

REAL PROPERTY

24. That during the course of the marriage the parties acquired an interest in a home and the real property it is situated on which property is located at 1808 S. 250 W. Clearfield, Utah 84015 and with a tax identification number of 122070305 and a legal description of: ALL OF LOT 305, ANTELOPE CROSSING NO 3 SUB. CONTAINS 0.196 ACRES (the "Marital Home"). It is fair and reasonable that Marcela should be awarded the Marital Home, subject to Jose being awarded an equitable lien in the Marital Home in the amount of twelve thousand five hundred dollars (\$12,500.00). Marcela shall be required to pay out such lien when L.J.M. turns 18 years of age or graduates from high school in his regularly expected year, whichever occurs later.

Marcela shall hold Jose harmless on any liabilities associated with the Marital Home. Jose shall be allowed to continue to reside in the Marital Home until January 18, 2024. While the parties continue to reside together they will share basic household expenses of food and utilities. Jose will sign a quit claim deed for the Marital Home within fourteen (14) days of the signing of this agreement.

25. That during the course of the marriage the parties acquired an interest in a home and the real property it is situated on which property is located at 586 S. Main Street, Clearfield, Utah 84015 (the "Rental Home"). It is fair and reasonable that Jose should be awarded the Rental Home as his sole and separate property. Jose shall hold Marcela harmless on any liabilities associated with the Rental Home, including the outstanding mortgage.

PERSONAL PROPERTY

26. That during the course of the marriage, the parties have acquired certain items of household goods, furnishings, fixtures, appliances and other items of personal property which should be equitably divided between the parties

27. That the parties acquired an interest in motor vehicles, to-wit: 2014 Toyota Camry, 2006 Toyota Sienna, 2006 Toyota Sienna, 1996 Toyota Tacoma, 1992 Ford Motorhome, 2005 Freightliner, and 1998 Utility Trailer. That Jose should be awarded his 2006 Toyota Sienna, 1992 Ford Motorhome, 2005 Freightliner, and 1998 Utility trailer. Marcela should be awarded

her 2006 Toyota Sienna (VIN ending in 6011). T.J.M. should be allowed to use the 2014 Toyota Camry and L.J.M. should be allowed to use the 1996 Toyota Tacoma. The children's vehicles will continue to be titled in Jose's name. Each of the parties should be awarded their respective vehicles, free and clear of any claim by the other and should hold the other party harmless on any and all liabilities associated with their respective vehicles. The parties will cooperate with each other in reconciling the titles to vehicles as necessary.

28. All property and all property rights which may be vested in either party as a result of family inheritance, trusts, or similar sources should be awarded to the party from whose family it came. All property acquired prior to the marriage should be awarded to the respective party who acquired said property. The parties are awarded their own separate property and personal effects. All other marital personal property shall be divided equitably. If there is a disagreement as to the division of marital personal property, the parties shall return to mediation and split the costs before bringing the matter to the court.

BANK ACCOUNTS/CASH

29. That during the course of the marriage, the parties have acquired various bank accounts and financial assets. Each of the parties should be awarded their respective accounts. The parties should close any joint accounts and split any funds in those accounts.

DEBTS AND OBLIGATIONS

30. Each of the parties shall be solely responsible for any debts in their respective names.

31. That Jose should indemnify and hold Marcela harmless on all debts and obligations Jose is ordered to pay. Such hold-harmless requirement is a debt to a spouse within the meaning of 11 U.S.C. §523(a)(15).

32. That Marcela should indemnify and hold Jose harmless on all debts and obligations Marcela is ordered to pay. Such hold-harmless requirement is a debt to a spouse within the meaning of 11 U.S.C. §523(a)(15).

33. Each party shall pay, discharge, and hold the other harmless from those debts and obligations which they may have incurred individually since the date of filing this action.

34. That pursuant to Utah Code Annotated §30-3-5, 1953 as amended, the parties should be ordered to notify each of their creditors and such notice should inform each creditor which party is primarily liable for the debt with that creditor following the entry of a Decree of Divorce in this matter and each party should be required to give the creditor the name and address of both parties.

35. That if either party is obligated on a joint-secured debt, the payment of that debt should remain current. In the event that a payment is not made in a timely manner, the secured asset should be placed for sale in order to protect the joint debtors. A party who makes payments on a delinquent asset, which the other party is ordered to pay, should be entitled to seek reimbursement of the payment of that debt in addition to interest and attorney fees from the other party who failed to timely pay the debt.

36. That the allocation of joint debts is an integral part of the financial settlement and support payments in this proceeding and should be considered in the nature of support to the other party.

As a result, the parties should not discharge the debts in bankruptcy if it causes the non-bankrupt party to be liable for the debt. The parties should understand that this provision may not be binding on the Bankruptcy Court.

37. The parties should each be required to make their best efforts to remove each other from any joint debts, obligations, loans, etc., by refinancing the debt, obligation, loan, etc., into their sole name.

MEDICAL INSURANCE

38. The parties will look into medical insurance coverage to determine which parent may be able to obtain the best coverage for the benefit of the parties' minor children. Upon doing so, that parent should be ordered to provide and maintain a policy of health, accident, and dental insurance for the benefit of each of the parties' minor children. If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance of Jose should be primary coverage for the dependent child and the health, hospital, or dental insurance plan of the Marcela should be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan, the health, hospital, or dental insurance plan of the step-parent should be treated as if it is the plan of the remarried parent and should retain the same designation as the primary or secondary plan of the dependent child. Jose and Marcela should equally share any and all out of pocket costs of health insurance premiums paid

for the benefit of the parties' minor children and should equally share the costs of any and all non-covered medical expenses including deductibles and co-payments.

39. A parent who incurs health and dental expenses should provide written verification of the services rendered as well as proof of payment of said health and dental expenses to the other party within thirty (30) days of payment and the other parent should pay his/her one-half share within thirty (30) days of receipt of said written verification, however, in no event will reimbursement be required until each party receives a copy of the Explanation of Benefits provided by the health or dental insurance carrier who has provided insurance coverage for any services rendered and for which reimbursement is sought.

40. Pursuant to Utah Code Annotated §78B-12-212, 1953 as amended, the parent who fails to provide written verification of the services rendered as well as proof of payment as provided herein may be denied the right to receive credit for the expenses or to recover the other parent's share of those expenses.

41. The parent ordered to maintain insurance should provide verification of coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., upon initial enrollment of the dependent child, and after initial enrollment of the dependent child on or before January 2 of each calendar year. The parent should notify the other parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should have known of the change.

DIVISION OF ACCOUNTS

42. The parties may elect that medical/dental and school expenses be created in separate accounts for payment by each parent as long as the provider receives a copy of the Decree of Divorce at or before the day on which the provider first renders medical/dental services or issues a bill for school fees pursuant to Utah Code Annotated §15-4-6.7.

TAXES

43. So long as two children can be claimed for tax purposes, each party should be allowed to claim one child. When only one child remains that can be claimed, the parties should alternate claiming that child with Jose claiming for odd tax years and Marcela claiming for even tax years.

44. That the parties are ordered to file separate federal and state income tax returns for the tax year 2023. Any refund to which either party is entitled should be awarded to that party as his or her own separate property, free and clear of any claim by the other. Any tax liability of either party should be the sole obligation of said party, holding the other harmless therefrom.

MISCELLANEOUS PROVISIONS

45. Neither of the parties has any retirement accounts or retirement interests.

46. The parties shall be mutually restrained and enjoined from bothering, harassing, annoying, threatening, or harming each other. The parties are restrained from going to either's place of residence, employment or any other place without written permission or as part of a scheduled parent time exchange. Both parties shall be civil and respectful in their communications with one another. Both parties should be restrained from making false allegations regarding the other party to professional licensing agencies, to DCFS, to police, Facebook or other social networking sites, or otherwise in any public forum.

47. Each of the parties should be ordered to execute and deliver to the other any documents necessary to implement the provisions of the Decree of Divorce entered by the Court. Should a party fail to execute a document within sixty (60) days of the entry of the Decree of Divorce, the other party may bring an Order to Show Cause at the expense of the disobedient party and ask that the Court appoint some other person to execute the document pursuant to Rule 70, Utah Rules of Civil Procedure. Any document executed pursuant to Rule 70 has the same force and effect as if executed by the disobedient party.

48. That it is fair and reasonable that Marcela should restore her former name of Marcela Alejandra Luna should she so desire.

49. Each party should be ordered to assume their own costs and attorney's fees incurred in prosecuting this action.

50. The parties mutually acknowledge that this agreement is freely and knowingly entered into, without any duress, or threat or fear of intimidation or harm. Each party has had the opportunity to consult with an attorney in connection with this case and this agreement, and has either done so or waives the right to do so.

51. This agreement constitutes the entire agreement between the parties, and no other terms or conditions exist outside of this agreement.

END OF ORDER

****THE COURT'S SIGNATURE APPEARS AT THE TOP OF THE FIRST PAGE****

APPROVED AS TO FORM:

/s/ Brandon Bowen*

Counsel for Respondent
*Signed with permission

Date: 10/16/2023