

IN THE TRIBAL COURT OF THE

FILED FEB 28 2020



SHAKOPEE MDEWAKANTON SIOUX COMMUNITY

LYNN K. McDONALD  
CLERK OF COURT

SMSC RESERVATION

STATE OF MINNESOTA

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In Re Marriage of:

Amanda Gustafson,

Court File No. 867-17

Petitioner,

v.

ORDER

James Van Nguyen,

Respondent.

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On February 12, 2020 the Petitioner filed a motion seeking an expedited review without a hearing. The Petitioner in her motion seeks the following:

1. An Order sealing the records in this file.
2. An Order prohibiting the vacation time of the Respondent from February 11 to the 17th and approving the vacation time of the Petitioner from March 6 to the 15th.
3. An Order clarifying the allocation of the costs for a Parenting Consultant as between the parties.

The Respondent timely filed his response to this motion on February 20, 2020 and the Petitioner filed her reply on February 24, 2020. The Respondent sets forth his response and raises new issues as follows:

- 1, Denying Petitioner's motion to the seal this court file.
2. Denying the Petitioner to modify the Parties previously agreed upon vacation schedule.
3. Clarifying the Petitioner may retain an agreed upon parenting consultant by both

parties and bear the sole responsibility of paying for those services.

4. Granting Respondent's request for attorney Jonathan D. Miller to withdraw from this above-captioned case pursuant to his previously filed Notice of Motion for Withdrawal as Counsel and related pleadings.
5. Granting Respondent's request to reassign this case file to a different Judge pursuant to rule 32 (a) of the Rules of Civil Procedure.
6. For such other and further relief as the Court deems just and equitable.

The Court reserves all issues but will address the Petitioner's request to go forward with the planned vacation commencing March 6, 2020. The Court has reviewed the motion and accompanying affidavit including nine emails dating from May 8, 2019 to January 14, 2020. These emails show the parties attempts to reach agreement on vacation dates, holiday dates and payment for the services of the Parenting Consultant. It is clear from the emails that the parties anticipated a 3rd and final vacation period for the Petitioner. The Petitioner modified the dates for that vacation in response to the Respondent's plans and finalized the dates as March 6, 2020 to March 15, 2020. Respondent objects to the vacation time of Petitioner arguing that the weekend of the 6th to the 8th is his scheduled parenting time, that he had plans for a wedding in his family on March 14th and a planned birthday party on March 7th. All dates conflict with Petitioner's request.

The Petitioner informs the Court that the March 14th wedding date is no longer an issue. That she had provided the weekend of February 13 to the 16th in compensatory time and has also offered the weekend of February 28th which is not Respondent's weekend for parenting time leaving the only conflict with those dates the birthday of the child's friend.

In considering the request the Court notes that the parties have established a vacation schedule that provides for 3 non-consecutive weeks during the year which commences on April 1st of each year with the vacation time to be taken by March 31, of the following year. The Respondent has taken his three weeks of vacation time and the Petitioner's proposed vacation time is her 3rd week as agreed to and consistent with the Order. That reason alone would provide support for granting Petitioner's request. However a more important basis for granting that request lies within the purpose of the parties agreement to set aside this vacation time as longer periods that will facilitate and enhance the parent/child relationship especially as the child continues to deal with the separation of the family unit caused by the divorce. The Court will grant the request of the Petitioner's dates for the vacation.

### ORDER

1. That it is in the best interest of the child to grant the Petitioner's request to take the 3rd and final vacation for the year.
2. That the remaining issues continue under consideration of the Court.
3. The parties shall provide to the Court the dates for the 3 non-consecutive weeks of vacation by close of business on April 1, 2020.

Date: February 28, 2020

BY THE COURT:



Henry M. Buffalo, Jr., Judge,  
Shakopee Mdewakanton  
Sioux Community Tribal Court