**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

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| IN RE THE MARRIAGE OF JOHN DOE AND JANE DOE | |
| Upon the Petition of  JOHN DOE,  Petitioner,  And Concerning,  JANE DOE,  Respondent. | CASE NO. \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*  **MOTION TO AMEND**  **OR ENLARGE** |

COMES NOW Petitioner, John Doe, pursuant to Iowa Rule of Civil Procedure 1.904(2), and hereby requests that the court enlarge or amend the Order entered on December 01, 2016 ruling on temporary matters, and in support of states:

1. Based upon the affidavits and evidence submitted at a temporary matters hearing the court ordered in pertinent part:

a) Jane Doe be granted temporary primary physical care of the parties’ minor child and that John be granted visitation with the children every other weekend from Friday until Sunday. John was also granted visitation with the children every Wednesday.

2. Petitioner respectfully requests that the court amend the ruling based on the following:

a) The overwhelming credible evidence demonstrated that Jane Doe unilaterally forced a visitation schedule upon John Doe. The court’s adoption of this forced schedule runs contrary to well settled case law, the directives of the Iowa legislature, and sets a dangerous precedent for future family law matters. A litigant should not be rewarded for alienating children from another parent; rather, Iowa Code section 598.41(c) (2015) indicates, “[t]he court shall consider the denial by one parent of the child’s opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement.” Here, at the advice of counsel, John did not go and get the kids and withhold them from Jane. He was instructed to not start a physical struggle for the children. He was instructed that an expedited temporary hearing would be the best way to resolve the matter. On the other hand, Jane called all of the shots and told a submissive John what would happen. She is now being rewarded for this behavior.

b) The overwhelming credible evidence demonstrates that it is in the minor children’s best interests to be in the temporary and primary physical care of their mother. Respondent does not even wake up the children in the morning; rather, John calls to wake them up. After that they get themselves ready. John then picks them up and takes them to school. To force the continuation of this serves as a disservice to not only John, but more importantly to the children.

c) All of the relevant factors to be considered in a custodial decision weigh in favor of John. He has a pattern of being the children’s primary physical caregiver, he is the party more likely to support the children’s relationship with the other parent, he is the more stable of the two parties, the children have a 16 year old sibling who resides with him, and he resides in the marital home. At a minimum these factors require a temporary shared care arrangement if not temporary primary physical care to John.

WHEREFORE Respondent respectfully requests that the court set a hearing on this motion and at the hearing amend or enlarge the findings to provide John with temporary primary physical care of the parties’ minor children and to amend the child support guidelines accordingly.

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