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FILED
Fourth Judicial District Court
of Utah County, State of Utah

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9:06

**IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH
UTAH COUNTY, PROVO DEPARTMENT**

125 North 100 West, Provo, Utah 84601

ANDRA KOETHER,

Petitioner,

vs.

STEVEN KOETHER,

Respondent.

DEFAULT DECREE OF DIVORCE

Case No. 054401714

Commissioner: **Thomas R. Patton** - Division 5

This matter is before the Court on Petitioner's motion. The Court notes that Respondent has been properly served in this matter, has failed to respond, and that his default is entered. The Court furthermore notes that Petitioner, Andra Koether, has done all in her power to finalize this matter, as is her right. The Court, being fully advised in the premises, and having entered its Findings of Fact & Conclusions of Law, now therefore

ORDERS, ADJUDGES & DECREES:

1. Petitioner is granted a Decree of Divorce from Respondent on the grounds of irreconcilable differences to become final and absolute upon entry into the Court's Register of Actions.
2. There are two minor children who are issue of this marriage, to wit: Elijah William Koether, born on 25 April 2003; and Zoey Emma Koether, born on 10 January 2005.
3. Petitioner is hereby granted sole legal and physical custody of the parties' minor children, subject to Respondent's reasonable visitation rights, as the parties may agree. If the parties are unable to agree upon a visitation schedule, it is hereby ordered that Respondent is granted the minimum visitation rights according to the guidelines set forth in Utah Code Annotated (UCA) §30-3-32 through §30-3-37 (1953, as amended). A summary of the visitation schedule was previously provided to the parties. All visitation is

hereby subject to the provisions of the parenting plan, set forth below:

PARENTING PLAN

a. Parental Responsibility

- (i) Each party is hereby restrained from making derogatory or disparaging remarks about the other party to the children, or in any way attempting to diminish the love and respect the children have for the other party.
- (ii) A Guardian *ad Litem* is hereby appointed in this matter in order to make recommendations for the best interest of the children in this matter. At a minimum, it is hereby ordered that Respondent should take an addiction assessment and follow through with any recommendations, including in-patient or out-patient treatment, recommended in conjunction with the assessment.
- (iii) It is hereby ordered that, until Respondent has completed a drug-rehabilitation program, demonstrates that he is free from the use of drugs via random urinalysis tests over a six month period, or by further Order of the Court, that all parent time (visitation) is hereby supervised by a mutually-agreeable supervisor. It is further just and proper that, in the event the parties are unable to agree upon a supervisor, that Respondent is hereby ordered to pay for supervision at ACAFS in Provo or such other professional agency as the Court deems appropriate.
- (iii) Alcohol, illegal drugs, or illegal consumption of prescription drugs cannot be consumed by either party or in the place where the children are staying or while the children are present.

b. Limitations on removing the children Unless either party moves more than 150 miles away or to another State (see provision (q), below), neither party can remove the children from the state if it will in any way infringe upon the custodial or visitation rights of the other party, except as provided for below. Furthermore, neither party can remove the children from the territory of the United States without giving at least 30 days' notice, but in any

event custodial or visitation rights cannot be infringed upon without prior written consent of the other party. In the event either party intends to move to another state or more than 150 miles from her or his residence at the time of the filing of this action, she or he will notify the other party in writing at least 30 days in advance. This provision is not intended to limit either parent from moving.

c. **Costs** The party exercising visitation is responsible for all the costs thereof.

d. **Minimum Schedule** The schedule outlined in Utah law , as modified by the Orders of the Court, is to be construed as a minimum schedule, and the parties are free to adjust the schedule to allow more visitation for the non-custodial parent as suits their needs and desires, if mutually agreed. If a particular set pick-up time is impossible to accomplish due to circumstances beyond the reasonable control of the either party, such as work schedules, that visitation is to be exercised to the extent possible.

e. Visitation schedules mutually agreed upon by both parents are preferable to a court-imposed solution.

f. The visitation schedule shall be utilized to maximize the continuity and stability of the children's lives.

g. The parties should give special consideration to make the children available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, 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;

h. The custodial parent shall have the children ready for visitation at the time he is to be picked up and shall be present at the custodial home or shall make reasonable alternate arrangements to receive the children at the time he is returned.

i. Neither visitation nor child support is to be withheld due to either parent's failure to comply with this visitation schedule.

j. The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school--including all events where parents are invited to participate--, social, sports, and community

functions in which the children are participating or being honored, and the noncustodial parent shall be entitled to attend and participate fully.

k. The noncustodial parent shall have access directly to all school reports including preschool and day care reports and medical records and shall be notified immediately by the custodial parent in the event of a medical emergency.

l. Each parent should provide the other with his current address and telephone number within 24 hours of any change.

m. Each parent shall permit and encourage liberal telephone contact during reasonable hours and uncensored mail privileges with the children.

n. Parental care, including by step-parents, shall be presumed to be better care for the children than surrogate care. The parties are encouraged to cooperate in allowing the non-custodial parent, if willing and able, to provide child care.

o. Each parent shall provide all surrogate care providers with the name, current address and telephone number of the other parent and shall provide the noncustodial parent with the name, current address, telephone number and social security number of all surrogate care providers unless the court for good cause orders otherwise.

p. For emergency purposes, whenever the children travel with either parent, all of the following will be provided to the other parent:

- (i) an itinerary of travel dates;
- (ii) destinations;
- (iii) places where the children or traveling parent can be reached; and
- (iv) the name and telephone number of an available third person who would be knowledgeable of the children's location.

q. Pursuant to UCA §30-3-37 (Relocation Statute), when either parent decides to move from the state of Utah or 150 miles or more from the residence specified in the court's decree, that parent shall provide reasonable advance

written notice of the intended relocation to the other parent. it is hereby ordered that such notice shall be given 30 days prior to the intended move. In any event, if the parties intend to live more than 150 miles apart or in separate states, either before or after the entry of the Decree of Divorce (or other order setting forth custody and related issues), it is hereby ordered that the Parent Time set forth in UCA §30-3-37 should apply. A summary of the Relocation Statute was previously provided to the parties.

--END OF PARENTING PLAN--

4. **Medical/Dental & Psychological Insurance** Each party has equal responsibility to provide medical and dental insurance for the minor children. If such insurance is not available through either parties' work at a reasonable cost, each party shall pay half for mutually-agreed upon insurance coverage. it is hereby ordered that the parties will equally split any medical expenses of the minor children, including dental, orthodontic, psychological and optical expenses, not covered by insurance.

5. **Ongoing Monthly Child Support** Petitioner is currently employed full-time and earns approximately \$1,680 per month.. Respondent is not currently employed but is capable of earning at least Federal Minimum Wage (approximately \$935 per month) which is hereby imputed to him as his income for the purposes of calculating child support in this matter. The base child support amount in this matter is \$674, of which Petitioner is responsible for \$433 and Respondent is responsible for \$241.

a. It is hereby ordered that Respondent shall pay child support as required by law in the amount of \$241 per month, commencing with the month of separation and continuing monthly until the youngest child reaches the age of 18 or graduates high school with his peers, whichever is later. It is also just and proper that Respondent shall also pay one-half of all child care expenses actually incurred by Petitioner, as required by law.

b. Petitioner is hereby granted judgment against Respondent for child support due from the month of separation through the month prior to the signing of the Decree of Divorce in this matter in the amount of \$1,923 (=

8 months (April 2005 - November 2005) × \$241/month). Respondent has 30 days from the entry of this Order to demonstrate what, if anything, he has paid toward that amount since the month of separation.

c. Pursuant to U.C.A. §78-45-7.11, [] it is hereby ordered that [] child support shall be reduced by 50% for time periods during which the child/ren is/are with the noncustodial parent for at least 25 consecutive days. Normal visitation and holiday visits to the custodial parent are not considered an interruption of the consecutive day requirement.

d. Pursuant to U.C.A. §78-45-7.11, [] it is hereby ordered that [] child support shall be reduced by 25% for time periods during which the child/ren is/are with the noncustodial parent for at least 15 days in any calendar month.

e. **Modifying Child Support** Pursuant to UCA §78-45-7.2(8), the parties are hereby notified concerning how the amount of child support may be modified after the entry of the final order in this matter, as follows:

- i. If the support order has not been modified within three (3) years after the entry of the most recent order, either party may, without showing a substantial change in circumstances, move the Court to modify the order if a difference in at least 10% which would be required under the guidelines can be shown (UCA § 87-45-7.2(6)).
- ii. At any time either party may move the Court to modify the order if a substantial change in circumstances is shown (UCA § 78-45-7.2(7)).

6. Each party is able to support herself/himself. Neither party is awarded alimony in this matter.

7. it is hereby ordered that all debts incurred during the parties' marriage, if any, are the equal responsibility of the parties, except as follows:

- a. It is hereby ordered that Petitioner should assume and hold Respondent harmless from the following marital debts: a debt on a Target charge card in the approximate amount of \$400.
- b. It is hereby ordered that Respondent should assume and hold Petitioner harmless from the following marital debts: all debt related to medical bills incurred on his behalf for his own treatment during the marriage, in the approximate amount of \$13,000.
- c. It is hereby ordered that each party is solely responsible for any debts incurred after the date of separation and hold the other party wholly free from any liability resulting therefrom.

8. **Award of Tax Exemption** Petitioner is awarded the dependency exemption for the parties' minor children for income tax purposes.

9. The parties acquired items of marital property during the time of the parties' marriage. Each party is hereby awarded the personal property currently in his or her own possession or control except as follows:

- a. Respondent is hereby awarded any items of his personal property, if any, in Petitioner's possession.

10. The parties acquired no real property during the course of their marriage.

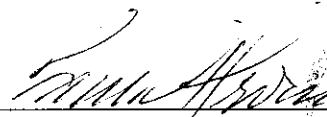
11. Each party is awarded her or his sole and exclusive interest in her or his own retirement funds, accounts or other such interests, if any.

12. Respondent has failed to take the Divorce Education for Parents Class as required by law. Respondent had been properly notified of this requirement when he was served with the Summons and Petition in this matter. Accordingly, Respondent may not enforce his visitation rights until he has taken the class, neither can he seek to hold Petitioner in contempt for visitation issues for all time prior to

taking the class. When Respondent takes the class he must provide proof both to Petitioner and to the Court prior to seeking to exercise or enforce his visitation.

DATED this 14 day of December, 2005.

BY THE COURT:


DISTRICT COURT JUDGE

