IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA

MATTHEW WOOD, Petitioner

CASE NO.: 2013-DR-11520-O

and

JADE COOK, Respondent

NOTICE OF FILING

COMES NOW, the Honorable Heather Pinder Rodriguez, and files the following order entered in a related case:

Amended Order Granting Petitioner's Verified Motion to Vacate Order Granting Cook's Verified Motion for Return of Child and Relinquishing Jurisdiction to Arkansas after UCCJEA Hearing, dated January 18, 2017 filed in <u>Taylor Hoeft v. Jade Cook and Matthew Wood</u>, case number 2014-DR-3487, Ninth Judicial Circuit in and for Orange County, Florida

CERTIFICATE OF SERVICE

I HERBY CERTIFY that a copy of the foregoing has been filed in the Florida E-portal, and a copy has been furnished to Ashley Filimon, Esq., located at 37 N. Orange Ave., Ste 202, Orlando, FL 32801 and Jed Berman Esq., located at P.O. Drawer 30, Winter Park, FL 32790; this 18 day of January, 2017.

Judicial Assistant/ Attorney

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO. 2014-DR-3487-O

TAYLOR HOEFT,

Petitioner

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DIVISION: 42

vs.

JADE COOK and MATTHEW WOOD,

Respondents.	
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AMENDED ORDER GRANTING PETITIONER'S VERIFIED MOTION TO VACATE ORDER GRANTING COOK'S VERIFIED MOTION FOR RETURN OF CHILD and RELINQUISHING JURISDICTION TO ARKANSAS AFTER UCCJEA HEARING

THIS MATTER came before the Court for hearing on December 16, 2016 upon Petitioner, Taylor Hoeft's Verified Motion to Vacate Order Granting Cook's Verified Motion for Return of Child filed on November 29, 2016 (the "Motion to Vacate"), and then a subsequent hearing under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) on December 21, 2016, and the court, after hearing the argument of counsel, conferring with the Honorable Kevin King, Circuit Court Judge of Randolph County, Arkansas, and reviewing the relevant court filings and filings, hereby finds as follows:

Procedural History in Florida

The above styled action, 2014-DR-3487-O (hereinafter the "2014 Case"), was filed on March 12, 2014. In the 2014 Case, Petitioner, Taylor Hoeft ("Hoeft") asserts that he is the biological father of the child, A.G.W., date of birth December 19, 2010. Respondent, Jade Cook ("Mother") is the biological and natural mother of the child. Respondent, Matthew Wood ("Wood") asserts that he is the legal father of the child based on his execution of the supporting affidavits for the child's birth certificate. At the time of the child's birth, Mother was not married

to either Hoeft or Wood, nor has any testimony, motion or pleading indicated that she was ever married or is currently married to either man.

Throughout the majority of the proceedings in the 2014 case, Hoeft has been represented by attorney Ashely Filimon. Wood has been and continues to be represented by Attorney Jed Berman. Initially, Mother was represented by Attorney Greg Colvin, but he withdrew on February 16, 2015. At some point thereafter, Mr. Berman began representing both Mother and Wood in this action, although the court could not find a notice of appearance filed on behalf of Mother by Mr. Berman in the 2014 Case.

In addition to the above styled action, there are several other actions in this circuit, as well as Texas and Arkansas, involving the same parties and child.

 Matthew Wood v. Jade Cook, in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida, Case No. 2013-DR-11520-O. (the "2013 Case")

On July 25, 2013, Wood filed a paternity petition, through his attorney Jed Berman, naming Mother as the Respondent, and asserting that he is the legal father of the child based on his execution of an acknowledgement of paternity in conjunction with the issuance of the child's birth certificate. Mother filed a *pro se* answer on August 16, 2013, denying each of Wood's allegations in the Petition, including jurisdiction. In her *pro se* filings, Mother asserts that Florida does not have jurisdiction and filed a copy of a DNA test confirming that Hoeft was the biological father of the child. *See* Mother's Response to Petition at ¶1-2. Mother subsequently retained attorney Greg Colvin, who filed a Motion to Dismiss on July 7, 2014. The Motion to Dismiss further argued that Florida was not the home state of the child and advised Wood that Hoeft filed a paternity action in Texas on July 26, 2013—one day after the 2013 Case was filed by Wood. *See* Mother's Motion to Dismiss at ¶7.

Unfortunately, the issues of jurisdiction and paternity were never brought before the court and there are no orders on these matters. The last activity in the case was an order dated February 23, 2015—almost two years ago--, allowing Mother's attorney to withdraw.

II. Other Cases in the Ninth Judicial Circuit

In addition to the 2013 and 2014 Cases, there are several other actions associated with these parties in the Ninth Judicial Circuit, in and for Orange County, Florida including the following actions:

 Case No. 2014-DR-9603-O. Jade Cook v. Matthew Wood. On July 8, 2014, one year after Wood filed the 2013 Case, Mother filed a Petition for Injunction for Protection against Domestic Violence against Wood requesting an injunction based on the following assertion:

Matthew [Wood] and I dated while I was pregnant. We broke up when she was 6 months. He has continued to try and scare me to allow him in my daughter's life, while knowing her biological father is in her life. I have allowed her to visit his home. This specifically happened there. I came over at 7 am to pick her up and he tried to deny me access to my daughter. He then shoved me into the wall and told me to leave. I continued to try and then allowed me to get her after the fight. He has continuously threatened me about taking [child] away from me. I do not feel safe for myself and my daughter. I also moved out of Winter Park in hopes of him leaving me alone.

- Id. at p. 4. Based on Mother's allegations, a temporary injunction was entered. Mother voluntarily dismissed the petition and the temporary injunction was terminated at a hearing on September 23, 2014. In this action, Mother was represented by Greg Colvin and Wood was represented by Mr. Berman.
- Case No. 2016-DR-19170-O. Jade Cook v. Taylor Hoeft. On December
 22, 2016, the day after the court held the UCCJEA hearing, Mother filed a pro se Petition for
 Injunction for Protection against Stalking on behalf of the child against Hoeft, asserting that

Hoeft's mother kidnapped the child and would not return her and allegedly abused her. The Petition was denied without hearing.

- 3. Case No. 2016-DR-19174-O. Jade Cook v. Taylor Hoeft. On December 22, 2016, the day after the court held the UCCJEA hearing, Mother filed a pro se Petition for Injunction for Protection against Stalking against Hoeft, asserting that Hoeft's mother kidnapped the child and would not return her. The Petition was denied without hearing.
- 4. 2016-DR-19451-O. Jade Cook v Taylor Hoeft. On December 30, 2016, Mother filed a pro se Petition for Injunction for Protection against Dating Violence against Hoeft, again asserting that Hoeft and his mother kidnapped the child. The Petition was denied without hearing.
- 5. 2016-DR-19455-O. Jade Cook v. Taylor Hoeft. On December 30, 2016, Mother filed a pro se Petition for Injunction for Protection against Sexual Violence on behalf of the child against Hoeft, again asserting that Hoeft and his mother kidnapped the child and she has been abused. The Petition was denied without hearing.

II. The 2014 Case

In his 2014 Case Petition, Hoeft asserts that he filed a paternity petition in Texas in 2013, but that Mother moved with the child to Florida in March 2013. He further asserts that the DNA testing attached to his Petition prove that he is the biological father of the child. Mother, through her attorney, Greg Colvin, filed a Motion to Dismiss on July 7, 2014, asserting that Florida does not have jurisdiction and that there is a pending paternity filed by Hoeft in Texas on July 26, 2013. See id. at \$1-4 and 7. Mother's attorney withdrew on February 23, 2015. No activity took place for another year and the issues of jurisdiction and paternity remained unresolved prior to the UCCJEA hearing on December 21, 2016.

On October 17, 2016—eighteen months after her attorney withdrew--, Mother filed a pro se Verified Motion for Return of Child, notarized by a secretary in Wood's attorney's office. In the Verified Motion for Return of Child, Mother asserts for the first time that "at all times relevant hereto, Florida has been the home state of the child." Id. at ¶4. Mother alleges that while she was visiting relatives in Arkansas, Hoeft and his mother filed a petition for guardianship and the Arkansas court improperly took jurisdiction over the child and placed the child in the custody of Hoeft's mother, Deborah Hoeft. A predecessor judge entered an ex parte Order Granting Mother's Verified Motion for Return of Child without notice or hearing on October 19, 2016, and ordered that the child be returned to Mother.

UCCJEA Analysis

In response to Mother's ex parte motion to return the child and ensuing order granting same, Hoeft filed the Motion to Vacate. In the Motion to Vacate, Hoeft states that the Circuit Court of Randolph County, Arkansas took emergency jurisdiction over the child upon a guardianship petition filed by Deborah Hoeft at the time Mother was arrested in Arkansas on a Texas felony charge on or about August 8, 2016. Verified copies of several orders from the Circuit Court of Randolph County, Arkansas, *In the Matter of A.G.W.*, No. PR-2016-111, have been filed with this court and are attached hereto as Exhibit "A" for reference.

According to the attached Arkansas orders and as confirmed by The Honorable Kevin King at the ensuing UCCJEA hearing, in an ex parte order dated August 8, 2016, the Randolph County, Arkansas Circuit Court took emergency jurisdiction over the child and appointed Deborah Hoeft as temporary guardian. On September 19, 2016, Judge King held an evidentiary hearing. Mother, Deborah Hoeft, and Elizabeth Scott were present at the hearing. At the conclusion of the evidentiary hearing, Judge King found that it was in the best interest of the child for Deborah Hoeft

to remain the child's temporary guardian. Judge King ordered that it was in the child's best interest that Hoeft have only <u>supervised</u> visitation with the child and that the court would not consider any further visitation until he passed a hair follicle drug test. Judge King further ordered that Mother "shall have no visitation [with the child] until such time as she has taken and passed a hair follicle drug screen ... that [Mother] upon passing of the hair follicle drug screening, shall have telephone visitation with the minor child every other night for a period of no longer than 15 minutes." See Temporary Order dated September 28, 2016 at ¶7-8 and 12 (emphasis added). It is apparent based on the language of the order and the discussion at the UCCJEA hearing, that after hearing evidence presented at the hearing, Judge King had significant concerns about the child's well-being and safety with either Hoeft or Mother—the parties currently seeking temporary custody of the child before this court.

Less than one month <u>after</u> the Arkansas court required Mother to pass a hair follicle drug screen prior to having telephonic communication with the child—much less temporary custody or unsupervised timesharing, Mother filed her *pro se* Verified Motion for Return of Child with this Court—<u>asserting for the first time</u> that Florida has jurisdiction of the child. The Motion was granted by a predecessor judge on October 20, 2016, and reassigned to the undersigned judge on October 28, 2016. On November 22, 2016, the Arkansas court issued an order finding that Hoeft is the biological father of A.G.W.

These issues were first brought to the attention of the undersigned at a hearing on December 16, 2016 on the Motion to Vacate. Due to the competing jurisdictional issues, the undersigned

¹ The undersigned judge was and remains the judge for the 2013 Case. The 2014 Case was reassigned to the undersigned judge to ensure that the 2013 and 2014 Cases were assigned to the same judge to effectuate a Unified Family Court. See Order of Reassignment dated October 25, 2016.

ordered a formal UCCJEA hearing be held on an expedited basis to determine if Florida or Arkansas had jurisdiction of the child. An expedited UCCJEA hearing was held on December 21, 2016, before the undersigned. Hoeft was present and represented by Ms. Filimon. Wood and Mother were present and represented by Mr. Berman. Attorney Ryan Wallace, representing Deborah Hoeft, and Randolph County Circuit Judge Kevin King appeared telephonically. Pursuant to Section 61.517, Florida Statutes, the courts discussed which state should exercise UCCJEA jurisdiction. The undersigned, with the consent of Judge King, found that Arkansas properly asserted emergency jurisdiction over the child and continues to have jurisdiction over the child at this time, and that it would be the child's best interest that Arkansas maintain jurisdiction to avoid conflicting orders and ensure the safety and well-being of the child. At the conclusion of the hearing, it was announced on the record and agreed by the undersigned and Judge King, that Florida was relinquishing jurisdiction.

On December 22, 2016, Hoeft filed an emergency motion alleging that Mother was refusing to divulge the location of the child. At a hearing before another judge of this court on December 22, 2016, the court entered a pick-up order finding that Arkansas has jurisdiction and ordering the return of the child to Deborah Hoeft. The undersigned held a return hearing on January 12, 2017. Mother and Wood appeared with their attorney, Mr. Berman, and Ms. Filimon appeared on behalf of Hoeft. According to the testimony at the hearing, the child was returned to Deborah Hoeft per with the Arkansas orders.

Based on the foregoing, it is therefore ORDERED and ADJUDGED as follows:

The ex parte order granting Cook's Verified Motion for Return of Child, dated
 October 19, 2016, is VACATED, as the court was not given full information from which it could

make a determination of either jurisdiction or paternity; additionally, the order was entered without Hoeft being given notice or the opportunity to be heard.

- The State of Arkansas appropriately took emergency jurisdiction pursuant to Section 61.517, Florida Statues. Arkansas currently has temporary emergency UCCJEA jurisdiction over A.G.W. The Circuit Court of Randolph County, Arkansas has jurisdiction to determine the duration of the temporary custody order. §61.571(4), F.S.
- 3. The court makes no finding as to whether the State of Florida had UCCJEA jurisdiction in the 2013 or 2014 Cases as of the dates either of these petitions were filed. The court has no information about whether a prior paternity action was filed in the State of Texas. More importantly, Mother initially contested UCCJEA jurisdiction in both of these cases and she cannot now confer jurisdiction by wavier, consent or stipulation. Strommen v. Strommen, 927 So. 2d 176, 179 (Fla. 2d DCA 2006).
- The court makes no finding as to the legal or biological paternity of A.W.G. as it
 has not been determined that it has jurisdiction to do so.

DONE AND ORDERED this 18 day of 2017 at Orange County, Florida.

HEATHER PINDER RODRIGUEZ
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Order has been furnished via U.S. Mail and/or		
the Florida e-filing portal to the following o	n the	
.		
Ashley C. Filimon, Esq.	37 North Orange Ave. Suite 202 Orlando, FL 32801	
	afilimon@legalperson.com	
	Attorney for Hoeft	
	Attorney for Floor	
Jed Berman, Esq.,	P.O. Box 30	
	Winter Park, FL 32790	
	jberman@infantinoberman.com	
	Attorney for Wood and Mother	
The Honorable Kevin King	Circuit Court of Randolph Coupty	
•	Probate Division //	
	Post Office Box 477/	
	Ash Flat, AR 72513/	
	Mon. Lella	
	Judicial Assistant	

IN THE CIRCUIT COURT OF RANDOLPH COUNTY, ARKANSAS PROBATE DIVISION

In the Matter of AVANI GAIA WOOD, A Minor

NO. PR-2016- [1]

DEBORAH HOEFT

PETITIONER



PETITION FOR APPOINTMENT OF EMERGENCY, TEMPORARY, AND PERMANENT CO-GUARDIANS OF THE PERSON AND ESTATE

The Petitioner respectfully represents to the Court that an Emergency, Temporary and Permanent Guardian of the Estate and Person should be appointed for the minor child hereunder named, whose date of birth, sex and address is set opposite her name:

Name Date of Birth Sex Residence Address

Avani Gaie Wood 12-29-10 female 1900 Gustin

Pocahontas, AR 72455

The nature, extent and value of the property of the above named minor and the interest of the incompetent in such property, are as follows:

Description of Property and Interest Therein

Value

None

There is no Guardian of the Person or Estate of said minor, except as follows:

None

There are at present serving as Guardians of the Person and Estate of the minor whose names and addresses are as follows:

None

Insofar as Petitioner has been able to ascertain, the persons most closely related, by

blood or marriage, to the above named minor is those whose names and addresses are:

FILED IN OPEN COURT 12.16.16

Clerk, Cir. Ct., Orange Co., FL

By UNION D.C.



Taylor Alexander Hoeft, father, 906 Ballard St., Unit B, Alamonte Springs, FL 32701.

Jade Cook, mother, Craighead County Jail, Jonesboro, AR.

The names and addresses of the persons or institutions having care and custody of the above named minors are:

Deborah Hoeft, 7211 Lakewood Dr., Townhouse 114, Austin, TX 78750.

Petitioner is interested in procuring the appointment of Guardian of the above minor because it is necessary and to insure that she is properly cared for both financially and personally and Petitioner should be appointed Guardian. Currently the mother is being held in the Craighead County Jail. She was picked up and has felony warrants out of Clay, Texas. She will be extradited to Texas and held without bond.

The father currently resides in Florida and has verbally consented to the guardianship although due to the nature of the emergency guardianship his written consent has not yet been received.

The twenty (20) day waiting period should be waived because the minor is in danger. Petitioner request bond be waived.

WHEREFORE, Petitioner pray that Deborah Hoeft be appointed Guardian of the Person and of the Estate of said Avani Gaia Wood, minor.

DEBORAH HOEFT

Rv.

Ryan K. Wallace Ark. Bar #2012170 Attorney at Law

P.O. Box 993

Pocahontas, AR 72455

(870) 892-0313

VERIFICATION

1, Deborah Hoeft, do hereby state and allege that the above and foregoing facts set forth in the above styled pleading are true and correct to the best of my knowledge.

STATE OF ARKANSAS

COUNTY OF RANDOLPH

Subscribed and sworn to before me this 8th day of august

LEANNA SIMMONS NOTARY PUBLIC-STATE OF ARKANSAS RANDOLPH COUNTY My Commission Expires 08-21-2022 Commission # 12388869

My Commission Expires:

8-21-2022

IN THE CIRCUIT COURT OF RANDOLPH COUNTY, ARKANSAS PROBATE DIVISION

In the Matter of AVANI GAIA WOOD, A Minor

NO. PR-2016- 111

DEBORAH HOEFT

PETITIONER



EX-PARTE ORDER OF APPOINTMENT OF TEMPORARY AND PERMANENT GUARDIAN OF THE PERSON AND ESTATE

- That the Petitioner, Deborah Hoeft, is a resident of Austin, Texas and the minor child
 that is the subject of this guardianship proceed, Avani Gaia Wood, is a resident of Randolph
 County, Arkansas, and this Court had jurisdiction over the parties and the subject matter herein.
- That there is a need and necessity for this guardianship for the reason that Avani Gaia
 Wood is incapacitated by reason of her minority and decisions have to be made with regard to her health and welfare.
- That this Court finds that it is in the best interest of Avani Gaia Wood that the Petitioner.
 Deborah Hoeft, be appointed temporary and permanent guardian over the person and of the estate, for Avani Gaia Wood, born 12-29-10.
- That notice will be given to Jade Cooke, the biological mother, within the time and manner required by law.
- 5. That the Petitioner, Deborah Hoeft, is the fit and proper person to be appointed guardian over the person and estate of Avani Gaia Wood.

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That Avani Gaia Wood receives no income nor does she have any substantial assets and for that reason, no bond shall be required of Petitioner.

7. That it is in the best interest of Avani Gaia Wood that the Petitioner, Deborah Hoeft, be appointed temporary and permanent guardian over the person and estate.

IT IS THEREFORE CONSIDERED, ORDERED, AND ADJUDGED that the Petitioner.

Deborah Hoeft, is appointed temporary guardian of the person and estate of Avani Gaia Wood.

The Clerk is directed to issue Letters of Guardianship of the Person and Estate to the Petitioner.

No bond is required at this time, subject to further orders of the Court.

IT IS SO ORDERED.

CIRCUPT JUDGE

IN THE CIRCUIT COURT OF RANDOLPH COUNTY, ARKANSAS PROBATE DIVISION

In the Matter of AVANI GAIA WOOD, A Minor

NO. PR-2016-111

DEBORAH HOEFT

PETITIONER



TEMPORARY ORDER

Now on this 19th day of September. 2016, comes on for consideration and from all matters before this Court, this Court finds:

- 1. This Court has jurisdiction of the parties and subject matter herein.
- 2. That the Petitioner. Deborah Hoeft, and is represented by Ryan K. Wallace.
- That Elizabeth Scott is the Intervenor and is represented by Tim Watson. Jr. of Watson and Watson. Elizabeth Scott is hereby granted the right to intervene and present her petition for guardianship.
 - 4. That Jade Cook is a respondent to the petition and appeared at the hearing pro se.
- That upon testimony, evidence and other relevant information, this Court establishes that
 Taylor Alexander Hoeft is the biological father of the minor child. Avani Gaia Wood, born
 December 29, 2010.
- That Deborah Hoeft is the paternal grandmother of the minor child. This Court finds that
 it is in the best interest of the minor child that Deborah Hoeft remain temporary guardian.
- That Jade Cook shall have no visitation until such time as she has taken and passed a hair follicle drug screen.

STATE OF ARKANSAS

COUNTY OF RANDOCK PH | 25

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8. That Taylor Hoeft shall have visitation with the minor child only within the sight and sound of the guardian, Deborah Hoeft. Taylor Hoeft must also take and pass a hair follicle drug screen to expand his visitation rights. Taylor Hoeft is not to live with Deborah Hoeft.

9. Both Elizabeth Scott and Deborah Hoeft shall take hair follicle drug screens. Elizabeth Scott shall pay her own expense for the screening. The parties agree that if Deborah Hoeft passes the drug screen, then Elizabeth Scott will reimburse her for the cost of the screening.

10. All hair follicle drug screens must be taken by Wednesday. September 28, 2016, at 5 p.m.

11. That Elizabeth Scott shall have telephone visitation with the minor child every Tuesday. Thursday and Saturday for a period no longer than 15 minutes. Said phone call is to begin at 7 p.m. on said days.

12. That Jade Cook, upon passing of the hair follicle drug screening, shall have telephone visitation with the minor child every other night for a period no longer than 15 minutes. Said phone call is to begin at 7:15 p.m. on said days.

CIRCUIT

IT IS SO ORDERED.

APPROVED AS TO FORM:

Ryan K. Wallace

Attorney for Petitioner

Tim Watson, Jr.

Attorney for Intervenor

IN THE CIRCUIT COURT OF RANDOLPH COUNTY, ARKANSAS PROBATE DIVISION

In the Matter of AVANI GAIA WOOD, A Minor

NO. PR-2016-111

DEBORAH HOEFT

PETITIONER

ORDER ESTABLISHING PATERNITY

Now on this Aay of ______, 2016, and considering all evidence, the Court finds and orders as follows:

- That this court has jurisdiction over the parties and the subject matter herein and venue is proper.
- That a hearing was held in this matter on September 19, 2016, wherein the biological mother, Jade Cook, admitted under oath that Taylor Alexander Hoeft is the biological father of the minor child, Avana Gaia Wood.
- Additional proof of paternity was also established in the form of a DNA test that
 was admitted in to evidence during the hearing, a copy of which is attached hereto as Exhibit
 "A".
- 4. This Court finds that Taylor Alexander Hoeft is the biological father of the minor child, Avani Gaia Wood, born December 29, 2010.

IT IS SO ORDERED.

Circuit Judge

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COUNTY OF RANDOLPH)
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