

**NO. CV15-0467**

**IN THE MATTER OF  
THE MARRIAGE OF**

**ERGUN CANER  
AND  
JILL CANER**

**AND IN THE INTEREST OF  
DRAKE CANER, A CHILD**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

**415TH JUDICIAL DISTRICT**

**PARKER COUNTY, TEXAS**

**ORIGINAL COUNTER-PETITION FOR DIVORCE**

*1. Discovery Level*

Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

*2. Parties*

This suit is brought by Jill Caner, Counter-Petitioner. The last three numbers of Jill Caner's driver's license number are 455. The last three numbers of Jill Caner's Social Security number are 494.

Ergun Caner is Counter-Respondent.

*3. Domicile*

Counter-Petitioner has been a domiciliary of Texas for the preceding six-month period and a resident of this county for the preceding ninety-day period.

*4. Service*

Service of this document may be had in accordance with Rule 21a, Texas Rules of Civil Procedure, by serving Counter-Respondent's attorney of record, Mark C. Lane, 6100 Camp Bowie Blvd., Suite 22, Fort Worth, Texas 76116.

5. *Protective Order Statement*

No protective order under title 4 of the Texas Family Code is in effect, and no application for a protective order is pending with regard to the parties to this suit.

6. *Dates of Marriage and Separation*

The parties were married on or about August 6, 1994 and ceased to live together as husband and wife on or about April 9, 2015.

7. *Grounds for Divorce*

The marriage has become insupportable because of discord or conflict of personalities between Counter-Petitioner and Counter-Respondent that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

8. *Child of the Marriage*

Counter-Petitioner and Counter-Respondent are parents of the following child of this marriage who is not under the continuing jurisdiction of any other court:

Name: Drake Caner  
Sex: Male  
Birth date: November 14, 2004

There are no court-ordered conservatorships, court-ordered guardianships, or other court-ordered relationships affecting the child the subject of this suit.

Information required by section 154.181(b) of the Texas Family Code will be provided as necessary.

No property of consequence is owned or possessed by the child the subject of this suit.

Counter-Petitioner and Counter-Respondent, on final hearing, should be appointed joint managing conservators, with all the rights and duties of a parent conservator.

Counter-Petitioner should be designated as the conservator who has the exclusive right to

designate the primary residence of the child. The residence of the child should be restricted to Parker County, Texas. Counter-Respondent should be ordered to make payments for the support of the child and to provide medical child support in the manner specified by the Court. Counter-Petitioner requests that the payments for the support of the child survive the death of Counter-Respondent and become the obligations of Counter-Respondent's estate.

9. *Division of Community Property*

Counter-Petitioner requests the Court to divide the estate of Counter-Petitioner and Counter-Respondent in a manner that the Court deems just and right, as provided by law.

Counter-Petitioner should be awarded a disproportionate share of the parties' estate for the following reasons, including but not limited to:

- a. fault in the breakup of the marriage;
- b. benefits the innocent spouse may have derived from the continuation of the marriage;
- c. disparity of earning power of the spouses and their ability to support themselves;
- d. education and future employability of the spouses;
- e. community indebtedness and liabilities;
- f. tax consequences of the division of property;
- g. earning power, business opportunities, capacities, and abilities of the spouses;
- h. need for future support;
- i. nature of the property involved in the division; and
- j. wasting of community assets by the spouses.

10. *Separate Property*

Counter-Petitioner owns certain separate property that is not part of the community estate of the parties, and Counter-Petitioner requests the Court to confirm that separate property as Counter-Petitioner's separate property and estate.

11. *Post-divorce Maintenance*

Counter-Petitioner requests the Court to order that Counter-Petitioner be paid post-divorce maintenance for a reasonable period in accordance with chapter 8 of the Texas Family Code.

12. *Request for Temporary Orders and Injunction*

Counter-Petitioner requests the Court, after notice and hearing, to dispense with the issuance of a bond, to make temporary orders and issue any appropriate temporary injunctions for the preservation of the property and protection of the parties and for the safety and welfare of the child of the marriage as deemed necessary and equitable. Counter-Petitioner requests that the Court enjoin Counter-Respondent from the following:

1. Communicating with Counter-Petitioner in person, by telephone, or in writing in vulgar, profane, obscene, or indecent language or in a coarse or offensive manner.
2. Threatening Counter-Petitioner in person, by telephone, or in writing to take unlawful action against any person.
3. Placing one or more telephone calls, anonymously, at any unreasonable hour, in an offensive and repetitious manner, or without a legitimate purpose of communication.
4. Causing bodily injury to Counter-Petitioner or to a child of either party.
5. Threatening Counter-Petitioner or a child of either party with imminent bodily injury.
6. Destroying, removing, concealing, encumbering, transferring, or otherwise

harming or reducing the value of the property of one or both of the parties.

7. Falsifying any writing or record relating to the property of either party.

8. Misrepresenting or refusing to disclose to Counter-Petitioner or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.

9. Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.

10. Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to Counter-Petitioner.

11. Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of Counter-Petitioner or Counter-Respondent, whether personalty or realty, and whether separate or community, except as specifically authorized by order of this Court.

12. Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by order of this Court.

13. Making withdrawals from any checking or savings account in any financial institution for any purpose, except as specifically authorized by order of this Court.

14. Spending any sum of cash in Counter-Respondent's possession or subject to Counter-Respondent's control for any purpose, except as specifically authorized by order of this Court.

15. Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by order of

this Court.

16. Entering any safe-deposit box in the name of or subject to the control of Counter-Petitioner or Counter-Respondent, whether individually or jointly with others.

17. Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of Counter-Petitioner or Counter-Respondent, except as specifically authorized by order of this Court.

18. Changing or in any manner altering the beneficiary designation on any life insurance on the life of Counter-Petitioner or Counter-Respondent or the parties' child.

19. Canceling, altering, failing to renew or pay premiums, or in any manner affecting the present level of coverage of any life, casualty, automobile, or health insurance policies insuring the parties' property or persons, including the parties' child.

20. Opening or diverting mail addressed to Counter-Petitioner.

21. Signing or endorsing Counter-Petitioner's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to Counter-Petitioner without the personal signature of Counter-Petitioner.

22. Taking any action to terminate or limit credit or charge cards in the name of Counter-Petitioner.

23. Discontinuing or reducing the withholding for federal income taxes on Counter-Respondent's wages or salary while this case is pending.

24. Destroying, disposing of, or altering any financial records of the parties, including but not limited to records from financial institutions (including canceled checks and deposit slips), all records of credit purchases or cash advances, tax returns, and financial statements.

25. Destroying, disposing of, or altering any e-mail or other electronic data relevant to the subject matters of this case, whether stored on a hard drive or on a diskette or other electronic storage device.

26. Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance, at 511 Muir Hill Court, Aledo, Texas 76008 or in any manner attempting to withdraw any deposits for service in connection with those services.

27. Excluding Counter-Petitioner from the use and enjoyment of the residence located at 511 Muir Hill Court, Aledo, Texas 76008.

28. Entering, operating, or exercising control over the motor vehicle in the possession of Counter-Petitioner.

29. Disturbing the peace of the child or of another party.

30. Withdrawing the child from enrollment in the school or day-care facility where the child is presently enrolled.

31. Hiding or secreting the child from Counter-Petitioner.

32. Making disparaging remarks regarding Counter-Petitioner or Counter-Petitioner's family in the presence or within the hearing of the child.

33. Discussing this litigation with the child or with any other person in the presence of or within the hearing of the child.

34. Discussing this litigation on social media where the child could have access to the postings.

35. Consuming alcohol within the 12 hours before or during the period of possession of or access to the child.

33. Discussing this litigation with the child or with any other person in the presence of or within the hearing of the child.

34. Discussing this litigation on social media including but not limited to Facebook, Twitter, Instagram, Snap-Chat, instant messaging or any other social media sites or applications where the child could have access to the postings.

35. Permitting an unrelated adult with whom a party has an intimate or dating relationship to remain in the same residence with the children between the hours of 10:00 P.M. and 8:00 A.M.

36. Making any statement to or in the presence or hearing of the children, whether in person, by phone or in writing, that is intended primarily to alienate a child from the other parent or to incite a child against the other parent;

37. Discussing child support, spousal support, division of the parties' assets and liabilities, custody, discovery proceedings, testimony given or to be given by any adult, the scheduling of hearings or depositions, collaborative law meetings with professionals, alleged violations of any court order, or any other aspect of this action with the child or in the child's presence or hearing except with the consent and in the presence of a counselor or therapist who is treating the child or a guardian or attorney ad litem appointed by the Court to help the child, whether in person, by phone or in writing, or knowingly allowing another to do so;

38. Reading to or discussing with the child any contents of any pleadings, motions, discovery responses, transcripts of testimony, deposition transcript, social studies, psychological evaluations, psychological records, expert witness reports, affidavits or statements from any witness or potential witness, correspondence from or to attorneys, correspondence between the parties, newspaper articles, social media content, or any court record or document relating to any



legal proceeding affecting a party in this case, or causing or allowing the children to read or listen to recordings of same, or knowingly allowing another to do so.

Counter-Petitioner requests that Counter-Respondent be authorized only as follows:

To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation, and medical care.

To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.

*13. Request for Temporary Orders Concerning Use of Property*

Counter-Petitioner requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders and issue any appropriate temporary injunctions respecting the temporary use of the parties' property as deemed necessary and equitable, including but not limited to the following:

Awarding Counter-Petitioner the exclusive use and possession of the residence located at 511 Muir Hill Court, Aledo, Texas 76008, as well as the furniture, furnishings, and other personal property at that residence, while this case is pending, and enjoining Counter-Respondent from entering or remaining on the premises of the residence and exercising possession or control of any of this personal property, except as authorized by order of this Court.

Awarding Counter-Petitioner exclusive use and control of the motor vehicle and enjoining Counter-Respondent from entering, operating, or exercising control over it.

*14. Request for Temporary Orders Regarding Child*

Counter-Petitioner requests the Court, after notice and hearing, to dispense with the necessity of a bond and to make temporary orders and issue any appropriate temporary injunctions for the safety and welfare of the child of the marriage as deemed necessary and equitable, including

but not limited to the following:

Appointing Counter-Petitioner and Counter-Respondent temporary joint managing conservators, and designating Counter-Petitioner as the conservator who has the exclusive right to designate the primary residence of the child.

Ordering Counter-Respondent to pay child support, health insurance premiums for coverage on the child, and an equitable portion of the child's uninsured medical expenses while this case is pending.

Restricting the residence of the child to Parker County, Texas.

15. *Request for Interim Attorney's Fees and Temporary Support*

Counter-Petitioner requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders and issue any appropriate temporary injunctions regarding attorney's fees and support as deemed necessary and equitable, including but not limited to the following:

Counter-Petitioner requests that Counter-Respondent be ordered to pay reasonable interim attorney's fees and expenses, including but not limited to fees for appraisals, accountants, actuaries, and so forth. Counter-Petitioner is not in control of sufficient community assets to pay attorney's fees and anticipated expenses.

Counter-Petitioner has insufficient income for support, and Counter-Petitioner requests the Court to order Counter-Respondent to make payments for the support of Counter-Petitioner until a final decree is signed.

16. *Request for Temporary Orders for Discovery and Ancillary Relief*

Counter-Petitioner requests the Court, after notice and hearing, for the preservation of the property and protection of the parties, to make temporary orders for discovery and ancillary relief

as deemed necessary and equitable, including but not limited to the following:

Ordering Counter-Respondent to provide a sworn inventory and appraisal of all the separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties substantially in the form and detail prescribed by the *Texas Family Law Practice Manual* (3d ed.), form 7-1.

Ordering a pretrial conference to simplify the issues in this case and determine the stipulations of the parties and for any other matters the Court deems appropriate.

*17. Attorney's Fees, Expenses, Costs, and Interest*

It was necessary for Counter-Petitioner to secure the services of G. Thomas Vick, Jr., a licensed attorney, to prepare and prosecute this suit. To effect an equitable division of the estate of the parties and as a part of the division, and for services rendered in connection with conservatorship and support of the child, judgment for attorney's fees, expenses, and costs through trial and appeal should be granted against Counter-Respondent and in favor of Counter-Petitioner for the use and benefit of Counter-Petitioner's attorney and be ordered paid directly to Counter-Petitioner's attorney, who may enforce the judgment in the attorney's own name. Counter-Petitioner requests post-judgment interest as allowed by law.

*18. Prayer*

Counter-Petitioner prays that citation and notice issue as required by law and that the Court grant a divorce and all other relief requested in this Counter-Petition.

Counter-Petitioner prays that the Court, after notice and hearing, grant a temporary injunction enjoining Counter-Respondent, in conformity with the allegations of this Counter-Petition, from the acts set forth above while this case is pending.

Counter-Petitioner prays for attorney's fees, expenses, costs, and interest as requested

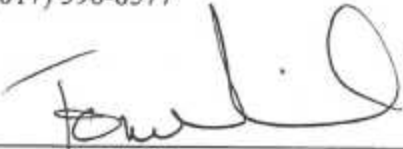
above.

Counter-Petitioner prays for general relief.

Respectfully submitted,

VICK CARNEY & SMITH LLP  
111 York Avenue  
Weatherford, Texas 76086  
Tel: (817) 596-5533  
Fax: (817) 596-8577


By: \_\_\_\_\_

  
G. Thomas Vick, Jr.  
State Bar No. 20563100  
tvick@vcslaw.com  
Attorney for Counter-Petitioner

#### Certificate of Service

I certify that a true copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on April 24, 2015.

Mark C. Lane  
6100 Camp Bowie Blvd., Suite 22,  
Fort Worth, Texas 76116  
Fax (817) 377-1806  
E-mail: marklane@me.com

  
\_\_\_\_\_  
G. Thomas Vick, Jr.  
Attorney for Counter-Petitioner