

*February 2022*  
*MPT-1 File*

*Painter v. Painter*

**Law Offices of Harold Huss**  
610 Main Street  
Monroe, Franklin 33002

**MEMORANDUM**

**To:** Examinee  
**From:** Harold Huss  
**Date:** February 22, 2022  
**Re:** Denise Painter divorce

We were recently retained by Denise Painter to represent her in filing and pursuing a divorce action against her husband, Robert Painter. The parties have one child, Emma, who is eight years old. I would like you to prepare an objective memorandum to me analyzing the following issues:

1. Is the court more likely to award joint legal custody of Emma to Robert and Denise or sole legal custody to just Denise?
2. For each of Robert's and Denise's assets and debts, determine whether it is (a) separate property or debt or (b) community property or debt. Be sure to discuss the appreciation or enhancement of any asset's value.

For each of the issues above, be sure to incorporate the relevant facts, analyze the applicable legal authorities, and explain how the facts and law affect your analysis. Do not include a separate statement of facts. I have attached a marital assets and debts worksheet that our paralegal completed during a meeting with Denise. As you know, Franklin is a community-property state, so the parties' community property and debts are divided equally. Do not discuss any child support issues.

## Law Offices of Harold Huss

### MEMORANDUM TO FILE

**From:** Harold Huss  
**Date:** February 1, 2022  
**Re:** Denise Painter divorce consultation notes

I met with Denise Painter today. She would like to obtain a divorce from her husband, Robert Painter. Denise and Robert started dating while they were juniors at Monroe High. They got married right after graduating from high school in 2013. They have an eight-year-old daughter named Emma, who is their only child. For the first seven years of Emma's life, Denise and Robert had a positive and loving relationship and were both very involved with Emma on a day-to-day basis. They jointly made decisions about her child care, schooling, extracurricular activities, and medical care.

The family dynamics changed significantly about a year ago, when Robert began drinking alcohol heavily. Robert would come home at 3:00 or 4:00 a.m. and stay up until dawn. He began sleeping through his shifts at his job as a mechanic at Lloyd's Automotive. About 10 months ago, in May, Robert forgot to pick up Emma from school because he was drunk; a week later he was arrested for DUI. Fearful that Robert would drive drunk with Emma in the car, Denise immediately demanded that Robert move out. The next day he moved into an extended-stay motel on the edge of town. He still lives in the motel and has been voluntarily participating in an outpatient rehabilitation program for alcohol addiction for the last six months.

Emma is in third grade at Lincoln Elementary School, which she has attended since kindergarten. She is a cheerful, healthy girl. Denise and Emma have a close relationship. They like to do crafts and watch movies together, and Denise helps Emma with her homework every night. Denise's mother, Harriett Golden, is also very involved in Emma's life. She picks up Emma from school and stays with Emma at Denise's house until Denise gets home from work.

According to Denise, Emma has spent time one-on-one with Robert only twice since he moved out 10 months ago—for an afternoon the week after he moved out and then again on Emma's birthday last August. For both visits, Robert called Denise to request time with Emma, and Denise agreed. These are the only two interactions that Robert and Denise had from the time that Robert moved out until last October. Since October of last year, Robert has been texting

Denise requesting to see Emma. Denise prefers to discuss the issue of visitation with Robert on the phone. So rather than return his texts, she calls him and leaves messages on his voicemail. She has called him 12 times in the past four months, but Robert hasn't answered the phone or returned her calls. Robert and Emma haven't spoken since Emma's birthday in August apart from casual conversation near the bleachers at Emma's soccer games. Robert and Emma do send text messages to each other from time to time, and Denise thinks that this communication is fine.

Denise has worked as the office manager at the Franklin Aluminum Can Company in town since high school. She continues to work there full-time and earns \$40,000 per year. About nine months ago, Robert was fired from his job at Lloyd's Automotive for missing too much work. He is now working for his brother's construction business putting up drywall. Denise doesn't know how much he makes but guesses it's probably \$25 an hour.

During the marriage, Denise and Robert lived in a house at 212 Lake Street, where Denise and Emma continue to reside. Denise's uncle, Sam Golden, gave the house to Denise two days before Denise and Robert's wedding. Sam had already paid off the mortgage. Denise and Robert paid \$5,000 to install a deck in 2016. And in 2019, they built a detached garage on the property, at a cost of \$5,000. Both improvements were made with the couple's savings.

Denise would like to file for divorce as soon as possible. She would like the ground for divorce to be incompatibility. She wants sole legal and physical custody of Emma, although she believes that Robert will want joint legal custody. Denise plans to stay in the house on Lake Street. She would like to receive child support from Robert but does not want to request alimony. She would like to return to using her maiden name, Denise Golden. Denise will meet with our paralegal to complete the marital assets and debts worksheet.

**Law Offices of Harold Huss**

**MEMORANDUM TO FILE**

**From:** Harold Huss  
**Date:** February 3, 2022  
**Re:** Conversation with Robert Painter

I called Robert Painter, the husband of our client Denise Painter. I informed him that I worked for our firm, that we represented his wife, that she wanted a divorce, and that I had several questions for him. I asked him whether he had hired an attorney. He said that he had not. I asked if he would be willing to talk with me, and he said yes.

Robert told me that he doesn't object to Emma's living with Denise, as long as he has regular visits with his daughter. He did not have a proposal for that contact but was insistent that he be regularly involved in Emma's life. In particular, he said that he would like to have joint legal custody but isn't requesting sole legal custody. He told me that he was interested in attending Emma's extracurricular activities, including her soccer practices and games and her music lessons. He also indicated that, since he had started rehab, he had become more aware of his own spiritual needs, and that he wanted to participate in that part of Emma's life too.

He stated that he has been working on his alcohol dependence for more than six months and thinks that he has made progress to becoming a more reliable parent. He said that he has not consumed any alcohol in the past four months and that he gets tested regularly by his rehab program. He hadn't had much one-on-one contact with Emma since he moved out of the Lake Street house because he wanted to wait until he got his act together. However, he has attended every one of Emma's soccer games since moving out. He said that he and Emma text each other sporadically. He also said that he is frustrated because Denise won't respond to his text messages but instead calls him and leaves rambling voicemail messages. He prefers to communicate by text message.

As to property, Robert was very clear that he wants to keep the motorcycle and the pickup truck, which are still in his possession. He was also very clear that he had put a lot of work into the freestanding garage and the deck. He wants to ensure that he gets his fair share of the house, to reflect the money he invested in both the garage and the deck.

## MARITAL ASSETS AND DEBTS WORKSHEET

	CLIENT WOULD LIKE TO KEEP	DATE ACQUIRED	VALUE
<b><u>Assets</u></b>			
Bedroom set	X	2014	\$500
65-inch Samsung TV		2019	\$500
Leather couch and loveseat		2014	\$500
Dining set	X	2018	\$500
2017 Toyota Tacoma pickup		2019	\$17,000
2014 Ford Explorer	X	2017	\$7,000
2009 Kawasaki motorcycle (gift to Robert from his father)		2019	\$600
Deck	X	2016	\$5,000
Detached garage	X	2019	\$5,000
House at 212 Lake Street	X	2013	\$215,000 (in 2013) \$245,000 (current value)
<b><u>Debts</u></b>			
Best Buy credit card		2019	\$1,000
CarMax loan for Tacoma pickup		2019	\$5,000
Target credit card		2018	\$4,000
<b><u>Retirement Accounts or Pension Plans</u></b>			
		None	
<b><u>Is any property located outside the state?</u></b>			
		No	