

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2011-090661

03/08/2012

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT
K. Alger
Deputy

IN RE THE MATTER OF
GREGORY S MILAN

CAROL A SODERQUIST

AND

ANNA BELINDA STEINHAUER

JOHN D PARKER II

FAMILY COURT SERVICES-CCC

UNDER ADVISEMENT RULING

This matter having been taken under advisement on December 1, 2011, and having considered the matters presented, the Court now makes the following findings and enters the following orders:

CUSTODY

Custody is at issue. The determination of the issue is statutorily controlled. A.R.S. Section 25-403(A) sets forth the factors to be considered. Those factors, as well as the Court's findings thereon, are as follows:

- *The wishes of the child's parent or parents as to custody.* **Father originally requested joint legal custody, but switched and requested sole legal custody. Mother would like to exercise joint legal custody.**
- *The wishes of the child as to the custodian.* **The child was not interviewed on this specific issue.**

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- *The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest. **The minor child seems to enjoy a warm, loving relationship with both parents.***
- *The child's adjustment to home, school and community. **The minor child will not suffer any adverse adjustments to home, school and community, and will spend roughly equal parenting time with each parent.***
- *The mental and physical health of all individuals involved. **The minor child experiences medical conditions which require monitoring by specialists and regular parental attention.***
- *Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent. **Father has expressed frustration with Mother's decision-making regarding medical care and communication regarding medical care. Father's frustration is well taken and corroborated by the evidence before the Court.***
- *Whether one parent, both parents or neither parent has provided primary care of the child. **Both parents have been involved in providing care for the minor child.***
- *The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody. **This is not a relevant factor in this case.***
- *Whether a parent has complied with chapter 3, article 5 of this title. **Both parents have complied with this provision.***
- *Whether either parent was convicted of an act of false reporting of child abuse or neglect under section 13-2907.02. **This is not a relevant factor in this case.***
- *Whether there has been domestic violence or child abuse as defined in Section 25-403.03. **This is not a relevant factor in this case.***

IT IS THEREFORE ORDERED as follows:

- A. The parties are awarded joint legal custody of the minor child.

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- B. Each parent is entitled to full and unrestricted access to all medical, dental, prescription and health related records of the child and may secure information from and consult with all health care professionals involved with the minor child. Each party shall keep the other parent informed of the names, addresses and telephone numbers of all health care providers of the child.
- C. Each parent is entitled to full and unrestricted access to all school records, teachers and school officials involved in the child's schooling.
- D. Both parents shall be listed and identified as contact persons on all records.
- E. In the event of any emergency or urgent circumstance involving the child, the other parent shall be notified as soon as is reasonably possible.
- F. Each parent shall have the right to attend and participate in school, extra-curricular, conference, organized activity or other similar event in which parents are routinely invited or permitted to attend.
- G. Each parent shall keep the other apprised of his/her home address, home telephone number, employer and address, work telephone number and, if applicable, cellular telephone number and e-mail address.
- H. It is in the furtherance of the child's best interests for the parents to confer and for the views of each parent to be considered. There shall be communication between the parents to address day-to-day and more significant issues. They shall develop their communication by utilizing e-mail as their primary method for communication. This shall afford a method that ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information. Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party shall have proof as to what was communicated.
- I. It is anticipated that parental decisions shall be required for major issues in raising the child and in meeting his on-going needs. If/when they arise, the parents shall address the issues. Each shall give good faith consideration to the views of the other. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input. If the parents cannot agree after making a good faith effort to come to an agreed upon decision, Father shall have "presumptive decision making authority." This level of authority shall allow Father the right to make a preliminary decision that she shall then communicate to Mother. If Mother believes that her decision is contrary to the best interests of the child, he

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shall have the right to seek review thereof through the Court. Mother shall have the burden to demonstrate that the decision made by Father is contrary to the child's best interests. It shall not be sufficient for him to demonstrate that an alternative decision may have also been in the interest of the child.

Physical Custody and Parenting Time – As part of the joint legal custody award, Mother shall be designated as the primary residential parent. Father's parenting time shall be as follows:

1. **Regular Access** – The Court affirms the 5-2-2-5 plan that is currently in place.
2. **Holidays** - The parties shall utilize the following schedule which shall take priority over the regular or summer access schedule:
 - a. Christmas shall be divided into two segments. The first shall begin on December 24th at noon and continue until December 25th at noon. The second segment shall begin on December 25th at noon and continue until December 26th at noon. In each even-numbered year, Father shall be entitled to the first segment and Mother shall be entitled to the second segment. In each odd-numbered year Mother shall have the first segment and Father shall have the second segment.
 - b. Thanksgiving shall be alternated each year. It shall begin at 6:00 p.m. on Wednesday night and continue until the regular exchange time on Friday. Thereafter, the parent entitled to that weekend under the alternating weekend schedule shall have the remainder of the weekend. In even-numbered years, Mother shall be entitled Thanksgiving and Father entitled to Thanksgiving in odd-numbered years.
 - c. July 4th shall begin at 9:00 a.m. and continue until 9:00 a.m. on July 5th. The child shall be with Father in odd-numbered years and with Mother in even-numbered years.
 - d. Each year, the child shall be with Mother on Mother's Day from 9:00 a.m. until 6:00 p.m. and with Father on Father's Day from 9:00 a.m. until 6:00 p.m.
 - e. The child shall be with Mother for Easter Sunday in even-numbered years from 9:00 a.m. until 6:00 p.m. and with Father for this same time period in odd-numbered years.
 - f. Monday holidays shall be assigned to the parent who is entitled to that weekend under the alternating weekend schedule. Therefore, if it is Father's weekend and there is a Monday holiday attached thereto, the return of the child to Mother shall be on Monday evening rather than Sunday evening.

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Father shall be responsible for the pick-up of the child at the start of any access time assigned to him and Mother shall be responsible for the pick-up of the child at the end of Father's parenting time.

Each parent is entitled to exercise up to two separate one week vacations with the children each summer. Notice of the intention to exercise vacation time shall be provided, in writing (via email) by no later than sixty (60) days in advance. For travel, a full written itinerary shall be provided to the other parent at least fourteen (14) days before departure. The itinerary shall include mode of transportation, destinations, accommodations and telephone numbers.

Neither parent shall relocate the residence of the child outside of Arizona without prior written consent of the other parent or court order.

Each parent is entitled to have reasonable telephone communication with the child. It is the responsibility of the parent with whom the child is physically present to assist in facilitating such telephone communication.

CHILD SUPPORT

For child support purposes, the Court makes the following findings consistent with Father's Exhibit 11:

Mother's Income (Imputed)	\$3,500.00
Father's Income	\$5,406.00
Basic Support Obligation	\$1,087.00
Health Insurance Paid by Father	\$156.50
Parenting Time Adjustment (182 days)	50%

In applying these findings under the Arizona Child Support Guidelines,

Father would have to pay child support to Mother in the total amount of \$54.81 per month, commencing February 1, 2012. In light of the past payments of medical expenses Father already paid, and may continue to pay, the Court finds a basis for deviation and orders that neither party shall owe other party any child support, whether past, present or prospective.

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EXCHANGE OF INCOME INFORMATION

The parties shall exchange income information every 24 months from the date of the entry of the Decree of Dissolution of Marriage for so long as Father has an obligation to pay child support. Said financial information shall include, but not be limited to: personal tax returns with all schedules, affidavits of financial information, earning statements and other such documentation necessary to establish or prove the income of either party. In addition, at the time of the exchange of financial information, the parties shall also exchange residential addresses and the names and addresses of their respective employers.

CHILD'S INSURANCE

IT IS ORDERED that Father shall maintain medical insurance for the minor child. Father shall ensure that Mother is kept informed at all times of the name and address of the insurance provider as well as the policy number. Additionally, Father shall provide Mother with valid insurance cards and policy information and update information changes.

IT IS FURTHER ORDERED that any non-covered medical, dental, orthodontic, optical, prescription expenses as well as deductibles and co-pays shall be paid 60% by Father and 40% by Mother.

DEPENDENCY EXEMPTION

IT IS ORDERED that Father may claim the minor child in odd years, and Mother may claim the minor child in even years.

IT IS FURTHER ORDERED that each party shall execute any IRS forms required in order to implement these terms, including IRS Form 8332.

IT IS FURTHER ORDERED that Father's right to claim the exemption in any given year is conditioned upon payment by Father by December 31st of the total Court-ordered monthly child support obligation for that calendar year and any Court ordered arrearage payments due during the calendar year for which the exemption is to be claimed.

ATTORNEY FEES

An award of attorney fees is controlled by A.R.S. § 25-324. It provides that the award may be based upon either the financial resources of both parties or the reasonableness of positions taken during the proceedings. The Court finds that, as a result of the discovery dispute,

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and some of the unreasonable positions taken by Mother, it is appropriate to order that Mother pay at least some portion of Father's Attorney Fees. Accordingly,

IT IS ORDERED that Mother shall reimburse Father in the amount of \$1,000.00 as a sanction for her non-compliance with her discovery and disclosure obligations.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

DATED the 8th day of March, 2012.

TIMOTHY J. RYAN

JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.