

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2008-004941

08/04/2011

HON. SAM J. MYERS

CLERK OF THE COURT

D. Benitez

Deputy

IN RE THE MATTER OF
LARRY JOHNSTONE

LARRY JOHNSTONE
7942 W BELL RD # C5116
GLENDALE AZ 85308

AND

DARLENE JOHNSTONE

DARLENE JOHNSTONE
2215 E CALVARY LN
PRESCOTT AZ 86301

FAMILY COURT CONFERENCE
CENTER-CCC
FAMILY COURT SERVICES-CCC

MINUTE ENTRY

Courtroom CCB – 603

Prior to the commencement of this proceeding, Respondent's exhibits 1 through 11 are marked for identification.

9:05 a.m. This is the time set for an Evidentiary Hearing regarding Petitioner's Petition to Modify Child Custody, Parenting Time and Child Support, filed January 18, 2011. Petitioner/ Father, Larry Johnstone, is present on his own behalf. Respondent/Mother, Darlene Johnstone, is present on her own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The parties inform the Court that no agreements have been reached.

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Larry Johnstone and Darlene Johnstone are sworn.

Discussion is held with the Court regarding the status of this matter.

Based upon the matters discussed, the following orders are entered:

IT IS ORDERED directing the Family Court Conference Center to prepare a child support arrearage calculation and to provide a report on such to the Court and to each party. Said report shall be completed within 30 days of the filing date of this minute entry.

IT IS FURTHER ORDERED that if Father has overpaid his child support obligation, Mother shall refund the overpayment to Father within 30 days of any overpayment amount.

IT IS FURTHER ORDERED that any unreimbursed medical/dental expenses incurred for in-network providers shall be split equally by the parties. Any out-of-network medical/dental expenses shall be paid by the parent utilizing the out-of-network provider.

Respondent's exhibits 2, 3, 4, 5, 6, 7, 8, 9 and 11 are received in evidence.

Further discussion is held.

THE COURT NOTES that the parties have reached certain agreements, which are dictated into the record by the Court in the presence of both parties.

Both parties testify that the agreements stipulated to on the record are their agreements, that they understand the agreements and believe them to be in their and the minor child's best interests at this time, and that the terms are fair and equitable.

THE COURT FINDS that the agreements reached by the parties this date are in the parties' and the minor child's best interests, is are fair and equitable, constitute a binding agreement under Rule 69 of the Arizona Rules of Family Law Procedure (ARFLP), are adopted as an Order of the Court, and are immediately enforceable as such.

There being no further need to retain the exhibits currently in the custody of the division clerk,

IT IS ORDERED that the Clerk permanently release those exhibits not offered or received in evidence to the counsel/party causing them to be marked, or to a written designee. Counsel/party or written designee shall have the right to relevant exhibits as needed in support of

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any appeal. Re-filed exhibits must be accompanied by a Notice of Re-filing Exhibits and presented to the Exhibit Department of the Clerk's office. The Court's exhibit tag must remain intact on all re-filed exhibits.

Based upon the testimony presented and the matters discussed,

IT IS ORDERED taking this matter under advisement.

9:55 a.m. Matter concludes.

LATER:

CUSTODY AND PARENTING TIME RULING

Best Interest Findings: A.R.S. § 25-403

The Court has considered the agreement of the parties and the factors under A.R.S. § 25-403. The parties have stipulated to a finding that the agreed upon plan is in the best interests of the minor child.

THE COURT FURTHER FINDS that there is no history of domestic violence (A.R.S. § 25-403(E) and 25-403.03), any drug related offenses of either party (A.R.S. § 25-403.04) and any sexual offenses (A.R.S. § 25-403.05) sufficient to preclude the award of joint legal custody as agreed.

Legal Custody

THE COURT FURTHER FINDS that it is in child's best interest that Mother and Father be awarded joint legal custody of Brittany Johnstone (born March 25, 1994).

IT IS THEREFORE ORDERED awarding Mother and Father joint legal custody of Brittany Johnstone (born March 25, 1994).

Custody Terms

Parental Access To Records And Information- Both parents are entitled to have equal access to documents and other information concerning each child's education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A person who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred

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by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian, without a prior court order, is subject to appropriate legal sanctions.

Educational Arrangements- Both parents have the right to participate in school conferences, events, and activities (including extra-curricular), and the right to consult with teachers and other school personnel.

Medical And Dental Arrangements- Both parents have the right to authorize necessary emergency medical/dental treatment and the right to consult with physicians and other medical practitioners. Both parents shall advise the other parent immediately of any emergency medical/dental care sought for each child. Both parents shall cooperate on health matters pertaining to each child and shall keep one another reasonably informed regarding the status of each child's health. Both parents shall keep each other informed as to names, addresses, and telephone numbers of all medical/dental care practitioners.

Parental Communication- In furtherance of each child's best interests the parents shall confer and shall consider the views of each parent. The parents shall communicate to address day-to-day and more significant issues. The parents shall use e-mail as their primary method for communication. This method allows the parents to develop their communication and 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.

Relocation- Neither parent shall relocate the residence of the child outside of the state of Arizona or to a distance greater than 100 miles from the current residential locations unless that parent first secures the written consent of the other or secures a court order authorizing the move.

Mediation Or Conciliation Services- The parties shall participate in mediation through a private mediator or through this Court's Conciliation Services to resolve any disputes, problems or proposed changes regarding this child custody order or parenting time before seeking further relief from the Court.

Decision Making Authority- Parental decisions shall be required for major issues in raising the child and in meeting on-going needs. When they arise, each parent shall give good faith consideration to the views of the other and put forth best efforts to reach a consensus decision. 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.

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Parenting Time

As a term of the overall custody orders, parenting time shall be exercised as follows:

Regular Access- Father shall be the primary residential parent. Mother shall have the minor child for two weekends per month and shall provide Father two weeks notice prior to any weekend where Mother exercises her parenting time. During Mother's weekends, Mother shall pick up the minor child from Father's home at 5:00 p.m. Friday and Father shall pick up the minor child from the Safeway in Prescott Valley at 5:00 p.m. Sunday.

Holiday Schedule- The previous holiday schedule is amended as follows:

1. **Christmas:** Christmas shall be divided into three segments.

- Mother shall have the first segment which shall begin when school ends for the holiday break or 6:00 p.m. on December 23rd (whichever is earlier) and continue until 10:00 a.m. on December 25th.
- Father shall have the second segment which shall begin at 10:00 a.m. December 25th and continue until 6:00 p.m. on December 30th.
- Mother shall have the third segment which shall begin at 6:00 p.m. on December 30th and continues until 6:00 p.m. on the day before school resumes at the end of the holiday break or January 1st (whichever is later).

2. **Spring Break:** Mother shall pick up the minor child from Father's home on Friday, March 16. Father shall pick up the minor child from the Safeway in Prescott Valley on Thursday, March 22, at 8:00 p.m.

Child Support

THE COURT FINDS that the relevant financial factors and the discretionary allowances and adjustments which the Court will allow for a current calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the Child Support Worksheet, which the Court hereby incorporates and adopts as its findings with respect to child support. Pursuant to the worksheet, Mother shall be obligated to pay \$317 per month to father for child support.

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IT IS ORDERED that Mother shall pay to Father as and for child support the sum of \$317.00 per month, plus \$5.00 per month as and for the Clearinghouse Handling Fee for a total of **\$322.00**, payable through the Support Payment Clearinghouse on the 1st day of each month, effective immediately, by Wage Assignment per the attached instructions.

LET THE RECORD REFLECT an Order of Assignment is initiated electronically by the above-named deputy clerk.

Tax Deduction For Child as a Dependent

IT IS ORDERED that the Father may claim the eligible dependent for the 2011 tax year.

IT IS FURTHER ORDERED that if Father is not current in the total Court-ordered child support obligation for the current calendar year and/or any Court-ordered arrearage payment due during the calendar year for which the exemption is to be claimed but nevertheless claims the child for tax purposes, Father shall pay directly to the Support Payment Clearinghouse 100 percent of any and all tax refunds that Father receives, which shall be applied first towards Father's current child support obligation, Father's current spousal maintenance obligation, and then towards any arrearage.

Additional Orders

IT IS ORDERED that Mother shall provide a copy of minor child's medical/dental insurance card(s) to Father not later than August 15, 2011.

IT IS FURTHER ORDERED that Mother shall provide medical insurance for the benefit of the parties' minor child, and shall provide an insurance card and claim filing information/forms to the other parent. All in-network medical, dental and orthodontia expenses incurred for the health and protection of the child not covered by insurance shall be paid 50 % by Father and 50 % by Mother. If the child is taken to a medical or dental provider outside the insurance network coverage, the parent who takes the child shall be responsible for 100% of the costs.

IT IS ORDERED that unless good cause is shown, any request for payment or reimbursement of uninsured medical, dental, and/or vision costs must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the Court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receipt of the request.

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Both parents must use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

FILED: Exhibit Worksheet; Child Support Worksheet

IT IS FURTHER ORDERED signing this Minute Entry as a formal written order of the Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*.

/s/ Honorable Sam J. Myers

HONORABLE SAM J. MYERS
SUPERIOR COURT JUDGE

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>.

Attachments:

DARLENE JOHNSTONE: Non IV-D Payment Instructions, Current Employer Information