DOCKET NO. HHD-FA-16-6071228-S	:	SUPERIOR COURT
FRANCELIA SAKON	:	JUDICIAL DISTRICT OF HARTFORD
V.	:	AT HARTFORD
JOHN A. SAKON	:	JULY 15, 2022

MEMORANDUM OF DECISION RE: CUSTODY, PLAINTIFF'S MOTIONS FOR CONTEMPT (#621 AND #622), PLAINTIFF'S MOTION FOR ATTORNEY'S FEES (#623), PLAINTIFF'S MOTION FOR ORDER RE: RELOCATION (#624), DEFENDANT'S MOTION FOR ORDER RE: SCHOOL (#670.20), PLAINTIFF'S MOTION FOR ATTORNEY'S FEES (#837) AND DEFENDANT'S OBJECTIONS (#862 AND #864)

This action was initially instituted by a complaint filed on September 14, 2016, seeking the dissolution of the parties' marriage. On April 3, 2018, the parties entered into an agreement to dissolve their marriage. The court, *Prestley, J.*, accepted the bifurcated agreement and entered judgment to dissolve their marriage. The outstanding custody dispute was completed after twenty-nine hearing days, beginning with the first day on May 24, 2021, and the last day on March 15, 2022. The parties submitted proposed findings of facts on April 14 and April 18, 2022. The plaintiff was represented by counsel. The defendant was a self-represented individual.

I

PROCEDURAL HISTORY

A review of the procedural history is necessary given the amount of time that has passed since the initial dissolution complaint and counter complaint were filed, and the dissolution judgment and the voluminous filings and interim orders issued by the court in connection with the custody matter. It is noteworthy that as of the close of evidence, the

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docket filings in this case are up to 873. Much of the court activity and filing in this matter have been by the defendant as a self-represented individual.

On September 14, 2016, the plaintiff initiated the dissolution complaint. From the start, the parties have been embroiled over the custody of their one child, Odin (b. 5/27/11). On October 26, 2016, the parties entered into a stipulation to appoint Attorney Margaret Bozek as the GAL for the child (#110.03). On November 9, 2016, the parties agreed that the defendant's parenting time would be twice weekly and supervised by a third party recommended by the GAL (#112). Specifically, the defendant would have a visit on one weekday and one weekend day. The defendant also agreed to pay child support to the plaintiff in the amount of $142 per week. To say that a flurry of motions was filed by the defendant after this date is an understatement. On January 3, 2017, the parties came to another agreement regarding the defendant's parenting access (#132.02).

On March 3, 2017, at a hearing, the court, *Simon, J.*, addressed and disposed of twenty-eight pendente lite motions. The court also ordered that neither party would file any motion before the court without a request for leave, unless there is an *ex parte* emergency request that includes an affidavit from the GAL that she is in agreement with such emergency request. On April 19, 2017, another modification to the defendant's parenting access was ordered by the court, *Simon, J.* (#160). The court granted the defendant's motion to allow the child to play baseball with the Glastonbury Little League. In doing so, the defendant's parenting access was modified to shift the one weekday overnight to occur on the day in which the child had a game and change the weekend visit to Saturday for five hours.

On June 29, 2017, the court, *Simon, J.*, learned from the criminal court at Geographical Area 12 (G.A. 12) that the defendant was arrested and arraigned on another violation of a protective order involving the plaintiff. This arrest constituted the seventh criminal case pending in G.A. 12. The defendant was being held on a $500,000 bond. The court granted the plaintiff temporary sole decision-making over the child's involvement in camp and therapy and permitted the defendant access with the child pursuant to the court's prior January 3, 2017 order (#176).

On July 19, 2017, the court, *Simon, J.*, suspended the defendant's parenting access with the child due to his incarceration and placed additional requirements upon his release (#178). Specifically, the court ordered that if the court at G.A. 12 ordered a competency evaluation, then his parenting access would be temporarily suspended. However, if there was no competency evaluation ordered, then his access would be consistent with the court's January 3, 2017 order. On August 16, 2017, the plaintiff filed a motion for clarification regarding the court's oral custody orders from July 19, 2017, which were not reflected in its order (#180). The court, *Simon, J.*, granted the motion for clarification and ordered that the plaintiff have sole temporary custody until further order of the court (#180.01). It was not until October 21, 2020, when the court, *Connors, J.*, acting upon the defendant's motion for clarification (#438), vacated the prior order for temporary sole legal custody to the plaintiff (#438.10). The court, *Connors, J.*, restored joint legal custody to the parties with the plaintiff having final decision-making for summer camp and therapy issues.

On January 19, 2018, the court, *Olear, J.*, entered orders permitting the defendant to have access with the child one time a week for ninety minutes through a

supervised visitation facility (#195). Additionally, by agreement of the parties, Dr. Humphrey would conduct conflict management therapy and Dr. Smith would conduct a custody/psychological evaluation. The parties further stipulated to the referral questions for Dr. Smith (#198). This order was clarified later on February 2, 2021, as to the allocation of future payments beyond the $10,000 to Dr. Smith and $4000 to Dr. Humphrey (#542).

On April 3, 2018, the parties entered into an agreement to dissolve their marriage (#214). In their agreement, the parties confirmed the following: "The parties acknowledge that as of the date hereof, they have been unable to resolve the issues related to custody, access and care of their minor child, Odin Sakon (age 6). The issues shall be resolved by subsequent proceedings after completion of the custody evaluation being conducted by Dr. Smith." Notwithstanding, the defendant agreed to pay child support to the plaintiff in the amount of $142 per week.

At a hearing on April 4, 2018, the court, *Olear, J.*, ordered that the defendant's parenting access occur unsupervised on Thursdays after school with exchanges at the Manchester Probate Court (#218). If a Little League game interfered with the defendant's parenting time on Thursday, then it would occur on Monday. Additionally, the court granted the GAL's request for permission to withdraw from this matter. On April 28, 2018, the court, *Adelman, J.T.R.*, denied the defendant's motion to remove/replace the GAL[1] and objection to the GAL expenses (#221). The defendant was ordered to pay Attorney Bozek the sum of $22,286.42.

[1] The defendant previously filed two motions to remove the GAL (#146 and #147) on February 15, 2017 and March 3, 2017. Both motions were denied by the court, *Simon, J.*, on March 3, 2017 (#152).

On June 22, 2018, the court, *Olear, J.*, denied the defendant's request for overnight visits (#225). Instead, the court ordered an additional day of parenting access on Sunday for two hours starting at 3:30 p.m. and clarified that the Thursday parenting access was also for two hours. On October 15, 2018, the defendant filed a request for leave (#237) to file the following motions: (1) motion for contempt alleging violation of the visitation order (#230); (2) motion for contempt alleging consumption of alcohol (#238); (3) motion for contempt alleging violation with soccer registration (#239); (4) motion for a hearing on motion to restore his custodial rights (#227); and (5) motion for increased visitation and order of costs (#229). As the case has historically shown, the defendant's reaction, rather than allowing the matter to be scheduled by the court, is to inundate the court and opposing party with yet another set of duplicate filings. On December 14, 2018, the defendant sought permission from the court to file six motions (#241). They were the following: (1) motion to restore custodial rights (#227); (2) motion for increased visitation (#229); (3) motion for contempt alleging violation of the visitation order (#230); (4) motion for contempt alleging consumption of alcohol (#238); (5) motion for contempt alleging violation with soccer registration (#239); and (6) motion for order regarding drug and alcohol testing (#243). On December 17, 2018, the court, *Olear, J.*, denied the defendant's October 15, 2018 request for leave (#244). On January 7, 2019, the defendant filed a motion to reconsider and/or reargue this ruling (#245). The court denied the defendant's request (#247). As to the defendant's request for leave from December 14, 2018, the court, *Olear, J.*, denied the request except for the part in motion #229 requesting increased visitation (#248).

On March 6, 2019, the parties entered into an agreement allowing for the child to participate in Little League tryouts on March 10, 2019 (#260). After a hearing on April 5, 2019, the court, *Olear, J.*, ordered that the child participate in Little League for that spring into early summer, and each parent is to take the child to and from each practice and/or game during his or her respective parenting time (#263). The court also extended the defendant's parenting to Tuesday and Thursday from after school to 5:30 p.m. and modified the Sunday parenting access to Saturday from 1 p.m. to 4 p.m. The exchanges would occur at school, at the Little League site if during the parenting time, and, finally, if neither is an option, then at the Mary Cheney Library.

On April 25, 2019, the defendant filed a request for leave to file six motions for contempt and a motion for restoration of custody (#272). The court, *Olear, J.*, denied the request for leave without prejudice to have the motions heard at the custody hearing (#278). On September 10, 2019, the court, *Nastri, J.*, granted the defendant's request for leave at #294 to file five motions for contempt (#299, #300, #301, #302 and #303). The parties were directed to go to the caseflow coordinator to obtain a hearing date. The court also granted the defendant's request for leave at #294 to file a motion requesting an order for the child to pay Little League. At a hearing on September 30, 2019, the court, *Nastri, J.*, granted the defendant's motion for order at #314, permitting the child to participate in Little League for the remainder of fall 2019 (#318).

On September 20, 2019, the defendant filed a request for leave to file a motion for sibling visitation (#316) and a motion for modification of the May 15, 2019 order (#317). Both requests were denied by the court, *Nastri, J.* (#321.50 and #321.55). On

October 22, 2019, the court, *Nastri, J.*, granted the defendant's request for leave[2] to file a motion for contempt related to missed visitation and baseball participation (#319 and #321) and a motion for order regarding Cub Scouts (#320). These motions (#322, #323, #324, #326 and #327) along with the defendant's motions at #310 were to be heard at the hearing scheduled on December 9, 2019 and December 10, 2019.

On December 6, 2019, Dr. Smith filed her custody evaluation to the court. Additional findings regarding Dr. Smith's custody evaluation will be discussed later. The December hearing dates were continued by the court. The matter was transferred to the Regional Family Trial Docket and scheduled for five hearing dates from March 16, 2020 through March 20, 2020. On December 10, 2019, the defendant filed two requests for leave: (1) permission to file a motion to reassign his motions for which a request for leave was granted and scheduled to be heard on December 9, 2019, to another date before March 16, 2020; and (2) permission to file motions for Little League participation in spring 2020, holiday visitation schedule and increased parenting access. Both requests were denied by the court, *Connors, J.* on January 21, 2020.

The March 2020 hearing dates did not go forward. For the next four months, little activity occurred in this matter due to the limited court operations. The parties returned to court for a restraining order case in *John Sakon* v. *Francelia Sevin*, Superior Court, judicial district of Hartford, Docket No. FA-20-4091130-S. On July 8, 2020, the defendant filed a restraining order application. He did not receive any *ex parte* orders of relief. In his application, he alleged that he was in immediate physical danger and harm from the plaintiff because she allowed the child to participate in summer camp, thus

[2] Entry #321.60, #321.65, and #325.50

increasing the child's exposure to COVID-19 and therefore possible transmission to him during his parenting access. Following a contest hearing on July 22 and July 28, 2020, the restraining order was denied.

On August 24, 2020, the court, *Connors, J.*, granted the defendant's request for leave to file a motion for order to determine the child's elementary school in fall 2020. On August 31, 2020, the court, *Murphy, J.*, denied the defendant's motion for order (#420). On September 9, 2020, the defendant filed a request for leave for a ruling on Little League (#428). The court, *Connors, J.*, denied the request (#432). A majority of the motions and objections that followed were directed at discovery, subpoenas and quashing them, depositions, protective orders and motions in limine. On October 13, 2020, the defendant filed a request for leave to have the motions for contempt and the custody matter heard separately (#444 and #445). This was request was denied by the court, *Connors, J.*, on October 26, 2020 (#445.10). The defendant's motions for contempt and the outstanding custody matter were scheduled for a hearing from December 14, 2020 to December 18, 2020.

On December 14, 2020, the parties and counsel appeared virtually for the custody hearing. Neither party had complied with the Standing Trial Compliance order by filing their witness and exhibit list. Additionally, there were outstanding motions in limine and a motion for protective order, and depositions had not yet been completed. The matter was continued to February 1, 22 and 23, 2021 and March 4 and 5, 2021, with a scheduling order issued to address the outstanding matters that needed to be resolved prior to commencing the February hearing (#511).

In January 2021, the defendant filed a request for leave to file a motion for clarification as to court's January 19, 2018 order regarding payments to the custody evaluator. The request was granted and the court, *Olear, J.* clarified its orders in that: "The oral agreement of the parties as outlined by the defendant's attorney was that the defendant was to be solely responsible for the $10,000 retainer payable to Dr. Linda Smith and $4,000 to Dr. Humphrey. . . The court did not that date enter any further orders as to the allocation of payments that may have become due thereafter to Drs. Smith and Humphrey." (#542.10).

The matter did not proceed on February 1, 2021, due to inclement weather and the court's closing. On February 16, 2021, the plaintiff's counsel filed a motion for a continuance of the hearing due to an emergent medical condition and treatment requirement (#562). The defendant filed an objection (#563). The court, *Nguyen-O'Dowd, J.*, granted the continuance (#562.01). The defendant then proceeded to file no fewer than thirty-three requests or motions directed at the plaintiff's alleged violations of court orders, asking for certain of his matters to be scheduled to the next short calendar, and restoring his visitation rights or orders related to Little League, summer camp and vacation schedules.

On February 14, 2021, the defendant filed a notion of intent to file a writ of error to the Appellate Court (#576). On or about March 11, 2021, the defendant filed a writ of error (#590) and an amended writ of error on or about April 21, 2021 (#596.40). The Appellate Court denied the defendant's motion to have the matter expedited (#596.55). On May 26, 2021, the Appellate Court issued an order dismissing the amended writ of error in *F.M.S.* v. *J.A.S.*, AC 44634 (#642).

The contested custody hearing and defendant's motions for contempt were rescheduled to May 24, 25, 26 and 27, 2021. These days proceeded remotely on Microsoft Teams. The parties appeared in person for a full day hearing on the following days:[3] June 2 and 3, November 29 and 30, and December 1 and 2, 2021. On December 3, 2021, the parties were scheduled for a full day hearing in person. On the same day, the defendant filed a motion for continuance and reissuance of a subpoena (#746). The court, *Diana, J.*, issued an order that the matter shall resume at 2 p.m. and all other relief sought in the motion was denied (#746.01). After the court's order, the defendant filed a motion to continue the afternoon session (#749). The court, *Diana, J.*, denied the motion (#749.01). The defendant did not appear in court at 2 p.m. for the hearing. The parties appeared in person on December 6, 7 and 8, 2021, for full days of hearing.[4] During this time, the defendant filed multiple motions which would have resulted in delaying the hearing. On December 6, 2021, the defendant filed a motion for continuance to seek and consult with counsel (#753). The court, *Diana, J.*, denied the motion (#753.10). On December 7, 2021, the defendant filed a motion for continuance to seek the advice of counsel regarding his motion to disqualify the trial judge (#757). The court, *Diana, J.*, denied the motion (#757.10). On December 8, 2021, the court, *Diana, J.*, denied the defendant's oral motion for a continuance without prejudice unless he was able to provide written documentation from his physician as to his health status (#760). The same day, the court, *Diana, J.*, reconsidered the defendant's oral motion

[3] On November 16, 2021, the parties appeared in court for a trial management conference for the court to issue scheduling orders as to how to proceed with witnesses for the remainder of the hearing days.

[4] On December 7, 2021, the morning session was held via Microsoft Teams to accommodate the defendant's out-of-state witnesses.

for continuance after being provided with medical documentation and issued the following: "The court grants the defendant's oral motion for continuance and shall make accommodations as follows: the remaining days of trial shall continue in half day morning sessions." (#764).

The parties appeared in person on December 9, 10, 20, 21, and 22, 2021, January 3, 4, 5 and 6, 2022, and February 9, 2022 for half-day morning sessions.[5] Thereafter, the court scheduled the hearing to proceed on alternating full days on February 14, 16 and 18, 2022,[6] and March 9 and 15, 2022. On February 18, 2022, this court denied the defendant's oral motion for a continuance without prejudice to provide the court with documentation from his physician as to his health status. The defendant informed the court that he was not proceeding with his case and abruptly left the courthouse and did not return. On March 9, 2022, the defendant appeared for the hearing. On the record before lunch recess, the defendant informed the court that he was not going to return to court for a full day trial until Judge Diana modified his December 8, 2021 order. The court informed the parties that the hearing would resume at 2 p.m. unless a motion for continuance was filed and granted. The defendant neither filed a motion for continuance nor appeared for the afternoon session.

On March 15, 2022, the defendant appeared for the hearing. Again, he neither filed a motion for continuance nor appeared for the afternoon session. Based on the defendant's failure to appear, the court concluded that the defendant was forfeiting his

[5] On February 9, 2022, the morning session was held via Microsoft Teams to accommodate the defendant's out-of-state witnesses.

[6] The court, *Diana, J.*, granted the plaintiff's motion for continuance for the trial dates on February 22 and 23, 2022 (#833.01).

time and rested his case. Additionally, the court denied his pending motions for contempt and motions to disqualify with prejudice for failure to present any testimony, evidence, and argument to the court.[7] The plaintiff provided rebuttal testimony. The court ordered the parties to file proposed findings of fact by April 14, 2022.

II

FINDINGS

"The [fact-finding] function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties . . . ." (Internal quotation marks omitted.) *Cavolick* v. *DeSimone*, 88 Conn. App. 638, 646, 870 A.2d 1147, cert. denied, 274 Conn. 906, 876 A.2d 1198 (2005). "The sifting and weighing of evidence is peculiarly the function of the trier [of fact]. . . . The trier is free to accept or reject, in whole or in part, the testimony offered by either party. . . . That determination of credibility is a function of the trial court." (Citations omitted; internal quotation marks omitted.) *Heritage Square, LLC* v. *Eoanou*, 61 Conn. App. 329, 333, 764 A.2d 199 (2001). "Credibility must be assessed . . . not by reading the cold printed record, but by observing firsthand the witness' conduct, demeanor and attitude. . . . [I]t is the [fact finder] . . . [who has] an opportunity to observe the demeanor of the witnesses and the parties; thus [the fact finder] is best able to judge the credibility of the witnesses and to draw necessary inferences therefrom." (Internal quotation marks omitted.) *State* v. *Lawrence*, 282 Conn. 141, 155, 920 A.2d 236 (2007).

[7] During the custody hearing, the defendant filed numerous motions titled Motion to Disqualify. The court instructed the defendant that he could present all these motions at the conclusion of the hearing.

"It is the sole province of the trial court to weigh and interpret the evidence before it and to pass on the credibility of the witnesses. . . . It has the advantage of viewing and assessing the demeanor, attitude and credibility of the witnesses and is therefore better equipped than we to assess the circumstances surrounding the dissolution action." (Emphasis omitted; internal quotation marks omitted.) *Zahringer* v. *Zahringer*, 124 Conn. App. 672, 679–80, 6 A.3d 141 (2010).

Thus, in reaching its decision, the court has listened to the witnesses and assessed their credibility. The court has applied all applicable law and statutory criteria. The court unseals all financial affidavits pursuant to Practice Book § 25-59A (h) and takes judicial notice of all pleadings in the court's file. "Section 2–1(c) [of the Connecticut Code of Evidence] "provides that a court may take judicial notice of facts that are "not subject to reasonable dispute in that it is either (1) within the knowledge of people generally in the ordinary course of human experience, or (2) generally accepted as true and capable of ready and unquestionable demonstration." (Internal quotation marks omitted.) *In re Jah'za G.*, 141 Conn. App. 15, 24, 60 A.3d 392, cert. denied, 308 Conn. 926, 64 A.3d 392 (2013). "Judicial notice . . . meets the objective of establishing facts to which the offer of evidence would normally be directed. . . . Judicial notice relieves a party only of having to offer proof on the matter; it does not constitute conclusive proof of the matter nor is the opposing party prevented from offering evidence disputing the matter established by judicial notice." Id., 22.

"Notice to the parties is not always required when a court takes judicial notice. Our own cases have attempted to draw a line between matters susceptible of explanation or contradiction, of which notice should not be taken without giving the

affected party an opportunity to be heard ... and matters of established fact, the accuracy of which cannot be questioned, such as court files, which may be judicially noticed without affording a hearing." (Internal quotation marks omitted.) *Simes* v. *Simes*, 95 Conn. App. 39, 51, 895 A.2d 852 (2006). "Connecticut Code of Evidence § 2–2(b) provides: The court may take judicial notice without a request of a party to do so. Parties are entitled to receive notice and have an opportunity to be heard for matters susceptible of explanation or contradiction, but not for matters of established fact, the accuracy of which cannot be questioned." (Internal quotation marks omitted.) Id., 51 n.14.

Accordingly, the court makes the following findings of fact by a preponderance of the evidence.

II

BEST INTEREST OF THE CHILD

General Statutes § 46b-56 governs the making or modification of orders of custody. It provides in relevant part: "(a) In any controversy before the Superior Court as to the custody or care of minor children, and at any time after the return day of any complaint under section 46b-45, the court may make or modify any proper order regarding the custody, care, education, visitation and support of the children if it has jurisdiction under the provisions of chapter 815p. Subject to the provisions of section 46b-56a, the court may assign parental responsibility for raising the child to the parents jointly, or may award custody to either parent . . . according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. . . .

"(b) In making or modifying any order as provided in subsection (a) of this section, the rights and responsibilities of both parents shall be considered and the court shall enter orders accordingly that serve the best interests of the child and provide the child with the active and consistent involvement of both parents commensurate with their abilities and interests. Such orders may include, but shall not be limited to: . . . (2) the award of joint parental responsibility of a minor child to both parents . . . (3) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent where sole custody is in the best interests of the child; or (4) any other custody arrangements as the court may determine to be in the best interests of the child.

"(c) In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so, may consider, but shall not be limited to, one or more . . . factors . . . . The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision. . . ."

Thus, in deciding the best interest of the child, the court may consider, but is not limited to, seventeen factors set forth in General Statutes § 46b-56 (c).[8] "[I]n matters

[8] General Statutes § 46b-56 (c) provides: "In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so, may consider, but shall not be limited to, one or more of the following factors: (1) The physical and emotional safety of the child; (2) the temperament and developmental needs of the child; (3) the capacity and the disposition of the parents to understand and meet the needs of the child; (4) any relevant and material information obtained from the child, including the informed preferences of the child; (5) the wishes of the child's parents as to custody; (6) the past and current interaction and relationship of the child with each parent, the child's siblings and any other person who may significantly affect the best interests of the child; (7) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (8) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute; (9) the ability of each parent to be actively involved in the life of the child; (10) the child's adjustment to his or her home, school and community environments; (11) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the child's family home pendente lite in order to alleviate stress in the household; (12) the stability of the child's

involving child custody, and, by implication, visitation rights, [although] the rights, wishes and desires of the parents must be considered it is nevertheless the ultimate welfare of the child [that] must control the decision of the court." (Internal quotation marks omitted.) *Ridgeway* v. *Ridgeway*, 180 Conn. 533, 541, 429 A.2d 801 (1980).

The defendant argues that the plaintiff is prevented from seeking sole custody because it was not requested in any of her pleadings. The defendant has cited to no authority for this proposition. There does not appear to be any case law indicating that failure by a party to specifically seek sole custody in a pleading precludes a court from awarding sole custody. Much of the case law involving pleadings relates specifically to joint custody. For instance, in *Kidwell* v. *Calderon*, 98 Conn. App. 754, 911 A.2d 342 (2006), "the plaintiff sought joint legal custody *and any further orders that the court deemed necessary.* When looking at the relief sought in the custody complaint alone, it [was] difficult to understand the defendant's contention that the court was limited, if at all, to making an award of joint legal custody. It is here that [the court] must reiterate the principle that when making or modifying custody orders, the court's ultimate concern is determining the best interest of the child." (Emphasis added.) Id., 759. This determination was only qualified by the fact that while "a court has broad discretionary authority when determining custody orders, it must exercise that authority in a manner

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existing or proposed residences, or both; (13) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child; (14) the child's cultural background; (15) the effect on the child of the actions of an abuser, if any domestic violence, as defined in section 46b-1, has occurred between the parents or between a parent and another individual or the child; (16) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and (17) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision."

consistent with the due process requirements of fair notice and reasonable opportunity to be heard." (Internal quotation marks omitted.) Id., 758.

The case law suggests that while joint custody should typically be awarded only where one—or preferably both—of the parties seek joint custody, sole custody need not be specifically pled. Even when both parties seeking joint custody, however, the court is not required to award it. "[General Statutes § 46b-56a], read as a whole, reflects a legislative belief that joint custody cannot work unless both parties are united in its purposes. Therefore, joint custody cannot be an alternative to a sole custody award where neither seeks it and where no opportunity is given to the recalcitrant parent to embrace the concept. Further, it is significant that the statute contains no additional subsection providing for a procedure in the event neither parent seeks joint custody." *Emerick* v. *Emerick*, 5 Conn. App. 649, 658, 502 A.2d 933 (1985), cert. dismissed, 200 Conn. 804, 510 A.2d 192 (1986). "[Section 46b-56a (b)] does not mandate joint custody; it only creates a presumption that joint custody would be in the best interests of a minor child under certain circumstances. It is still for the trial court to decide whether joint custody has been agreed to by the parties." (Internal quotation marks omitted.) *Baronio* v. *Stubbs*, 178 Conn. App. 769, 776, 177 A.3d 600 (2017).

Therefore, this court has the discretion to grant sole custody regardless of whether the parties specify in their complaint that they are seeking sole or joint custody. As long as the parties are given fair notice and a meaningful opportunity to be heard, the court may grant sole or joint custody as it deems appropriate. Here, the defendant has had more than ample opportunity to be heard and has been on notice that the plaintiff sought sole custody. The parties have been embroiled in this custody dispute

since the dissolution complaint was filed in 2016. Their protracted custody dispute delayed any resolution of the marriage to the extent that the parties agreed to bifurcate the case and enter judgment, whereby the marriage was dissolved, but reserved the issue of custody pending the completion of a custody evaluation. In that custody evaluation, filed to the court on December 6, 2019, it was noted that both parties were seeking sole custody. In her trial management compliance, filed to the court in advance of the first day of trial on May 24, 2021, the plaintiff's proposed orders sought sole custody of the child. To accept the defendant's argument that there is no pleading by the plaintiff requesting sole custody of the child is to elevate form over substance. A review of the procedural posture in this case all leads to the conclusion that the plaintiff has sought sole custody, the defendant has been on notice of this relief, and the defendant has vigorously advocated for the opposite result.

III

DISCUSSION

A. Custody Evaluation by Dr. Smith

On January 17, 2018, the defendant's counsel filed a motion seeking an order requiring the parties to participate in a "comprehensive psychological evaluation for the purpose of assisting the Court in entering orders for the custody and access of [the] minor child." (#193). On January 19, 2018, the court, *Olear, J.*, by agreement of the parties, granted the defendant's motion and ordered that Dr. Linda Smith complete the evaluation (#195). The defendant was to be solely responsible for the $10,000 retainer to Dr. Smith (#542.10). The court did not enter any further orders as to the allocation of

payments that may come due thereafter to Dr. Smith. The parties further stipulated to the eighteen referral questions to Dr. Smith (#198).

Dr. Smith testified for several days at the hearing. She was qualified as an expert in forensic psychology and forensic custody evaluations. The evaluation process began in June, 2018. Dr. Smith filed the written custody evaluation in December, 2019. According to Dr. Smith, it is atypical for an evaluation to require eighteen months to complete. However, this evaluation took longer for multiple reasons, none of which were due to Dr. Smith. The interviews required an unusual amount of time with each party—thirty hours with the defendant and twenty hours with the plaintiff. Both parties had a significant number of records for Dr. Smith to review as well as reaching out to collateral contacts. There was no GAL to act as the intermediary, so Dr. Smith had to coordinate directly with the parties and counsel.

As the evaluation grew, Dr. Smith contacted the parties and counsel with concerns about the cost and timing of the completion. Dr. Smith suggested to the parties whether the evaluation could be limited and provided them different options. The parties discussed individually with Dr. Smith that they wanted the evaluation and did not want the custody evaluation to be limited. Dr. Smith also had to pause working on the evaluation due to nonpayment. After six months going back and forth with the parties, the plaintiff eventually gave Dr. Smith an additional retainer for $7500 on March 13, 2019.[9] Then, an additional second retainer was needed around the end of summer 2019 or September, 2019. There was no response by the parties to Dr. Smith's request for the second retainer. Nonetheless, she filed the completed custody evaluation to the

[9] Defendant's Exhibit H.

court in December, 2019. The total number of hours that Dr. Smith worked to complete the custody evaluation was 120 hours. The outstanding balance owed to Dr. Smith is $16,295.[10] The court has reviewed Dr. Smith's custody evaluation and her testimony at trial and finds her credible as to her findings and opinions.

Since the evaluation was filed to the court, Dr. Smith has not had any form of contact with either of the parties, the child or collateral resources outlined in the evaluation. She has not reviewed any additional records outside what has been reported in the evaluation. This court is mindful of its obligation to assess the child's best interests and a parent's ability to meet their needs as they presently exist. "In making its discretionary determination as to whether to modify an existing order relating to custody or a parental access plan, the trial court is bound to consider the [children's] *present* best interests and not what would have been in [their] best interests at some previous time." (Emphasis in original; internal quotation marks omitted.) *Merkel* v. *Hill*, 189 Conn. App. 779, 788, 207 A.3d 1115 (2019). See also *Collins* v. *Collins*, 117 Conn. App. 380, 391–92, 979 A.2d 543 (2009); see *O'Neill* v. *O'Neill*, 13 Conn. App. 300, 303–04, 536 A.2d 978 (court abused discretion by fashioning order based on past conduct and outdated evidence rather than present ability to parent), cert. denied, 207 Conn. 806, 540 A.2d 374 (1988).

Here, the court has not accepted Dr. Smith's evaluation in a vacuum. The court has considered the evidence from the comprehensive evaluation, as well as the testimony and evidence from the parties as to the child's and parties' current status, as further detailed below. See *Balaska* v. *Balaska*, 130 Conn. App. 510, 518, 25 A.3d 680

[10] Id.

(2011) (the court concluded that the trial "court's reliance on outdated information and past parental conduct in making or modifying orders concerning parental access may be improper" but based on the record, there was "no abuse of discretion where there was adequate current information in [the] record to support [its] orders").

1. Clinical and psychological observation of the plaintiff

Dr. Smith interviewed the plaintiff a total of seven times. The plaintiff presented to Dr. Smith as someone with trauma symptoms. She would shake and cry when discussing the domestic violence she experienced by the defendant. The plaintiff displayed significant fear and anxiety when the defendant was mentioned. In later interviews, her presentation improved, and the symptoms diminished to the point that she was able to tell her narrative. The plaintiff was cooperative and allowed Dr. Smith to lead the interview process. Dr. Smith found her to be thoughtful and child-centered. There were no clinical concerns aside from trauma symptoms. Dr. Smith concluded that the plaintiff's fear and anxiety related to the defendant was founded in reason.

The plaintiff has been the target of monitoring and stalking behaviors by the defendant. The plaintiff has not disclosed her address to the defendant, but he is aware of it. The defendant had two explanations as to how he obtained it. First, the police gave it to him so that he could protect himself from violating the protective order. Second, he was able to piece together where the plaintiff lived by using Odin's school bus stop.[11]

There was no concern about the plaintiff abusing alcohol. The plaintiff had high scores on her substance abuse subtle screening inventory (SASSI-3) based on an

[11] The defendant also crossed boundaries with Dr. Smith. He appeared at her residence unannounced. Dr. Smith had never provided the defendant with her home address.

evaluation for her lifetime use of alcohol and drugs. This was reflective of the plaintiff's alcohol and drug use as a teenager and young adult, but when screened for one year prior to the evaluation, there were no elevated levels.

The plaintiff has been a victim of domestic violence within the parties' relationship, specifically the coercive control type. The plaintiff provided numerous examples, which included the following: monitoring and surveillance of her communications and technology; blocking her accessibility to move; relentless pressure for sex and punishment when it did not happen; sleep deprivation by waking her up to argue; no financial support upon separation; running up her credit without her consent; and threatening legal action.[12] The defendant's response to these instances has been to slander the plaintiff and distort her claims by blaming it on her drinking and, finally, to portray himself as the victim. These defense mechanisms by the defendant are the exact indicators that Dr. Smith observed and factored into her conclusion.

2. Clinical and psychological observation of the defendant

Dr. Smith interviewed the defendant eleven times for the custody evaluation. Her primary clinical observations of the defendant's conduct and behaviors were the same presentation displayed by the defendant to this court throughout these proceedings and to the Department of Children and Families. He dominated the interview with content he wanted to discuss. He was difficult to keep on track with what Dr. Smith needed to accomplish. The defendant became combative and confrontational when Dr. Smith attempted to control the evaluation process or redirect him to her questions. He appeared late for his appointment but at the end of the session, he did not leave when

[12] Plaintiff's Ex. 15, pp. 50–51.

directed to and continued to discuss topics that he wanted. The conversations were marked with suspicion and paranoia of others. He readily discussed other court cases that he was involved in and presented them with pleasure as a necessary means to be exploitative. The defendant had the need to discuss a variety of medical ailments. Finally, he blamed others for his life situations, which included, but were not limited to his business failings, this protracted custody case, pending lawsuits and arrests.

Dr. Smith diagnosed the defendant with narcissistic personality disorder (NPD). The defendant's score on the Minnesota Multiphasic Personality Inventory (MCMI-III) was over three standard deviations on the narcissistic scale.[13] He was in the 99.7 percentile. This diagnosis is a long-term pattern of maladaptive behavior that is not amenable to treatment. An individual with NPD has difficulty in the area of negotiation. The narcissistic pathology is marked by the individual taking as much as he can, and if another individual attempts to compromise, then they push for more. Additionally, an individual with NPD displays low levels of empathy toward others. Their human relationships are used to meet their own needs or goals. There is little intimacy or connection with others, and any relationship that develops is superficial and predicated on the needs of narcissistic individual.

During Dr. Smith's observations of the defendant, she witnessed on multiple occasions behaviors consistent with a high level of narcissism—inability to negotiate, low levels of empathy, thoughts of conspiracy, treating others as an object and highly conflictual—at the beginning, middle and end of the evaluation process. She did not

[13] Dr. Smith conducted psychological tests on the parties in 2018 and again in 2019 due to the time lapse. She did not score the results from 2018. Her data was based on the tests administered in 2019. There was no additional testing.

see any changed behavior by the end of eighteen-month process. For example, in their parent child interactional, the defendant treated Odin like an object. The defendant struggled to understand how his action impacted Odin. For example, the defendant is adamant that Odin should know the truth and be told the information about the plaintiff's history. The defendant was guided by his own therapist to discontinue this behavior, but he did not stop. Additionally, the defendant's parenting time with Odin was focused on what activities the defendant wanted to do. If Odin wanted to do an activity, the defendant would respond by directing Odin to his activities. If Odin initiated conversation with the defendant, the defendant would neither follow up nor come back to it. However, if the defendant initiated the subject, then the defendant was engaged with Odin. These examples are what Dr. Smith referred to as functioning in parallel and not in interaction.

The defendant was persistent in presenting allegations that he believed were true and malintent with people and organizations. He would defend his position by basing it on his intuition and an organized conspiracy rather than a factual basis. The defendant's primary care physician and therapist noted this as well. When confronted with an individual with NPD, there is a concern with dishonesty or inaccurately presenting information. This could be unintentional because there is a distortion of the individual's view of the events. With the defendant, the concern becomes his ability to accurately relay information when many of his allegations were made with minimal information, yet his accusations were extreme. There was no rational basis—confirmed or corroborated—to be concerned over the defendant's allegations; they presented more as conspiracy theories and with a high level of paranoia.

Dr. Smith was concerned that the defendant's legal abuse, financial abuse and parental alienation would continue until Odin was a teenager or reached the age of majority. The defendant's current psychological functioning would place Odin at risk for harmful parenting. Likewise, as Odin became older and he tried to assert himself against the defendant's demands, there was the increased risk for heightened conflict and corporeal punishment.

3. Clinical and psychological observation of Odin

Odin easily discussed activities and his routine at the plaintiff's home. At the plaintiff's home, he has a routine and structure from the time he wakes up, returns from school and the evening and weekend. Odin described fun activities that they engage in together. During Dr. Smith's home visit, she observed Odin as "comfortable, at ease, he easily had fun, he was talkative, he led the conversation and interaction" with the plaintiff.[14] This is in stark contrast to the home visit between Odin and the defendant. "With Father, he was much more tense and hypervigilant/observant of Father, watching his every move, gesture, word, etc. Odin often didn't look at ease, although he would in conversation with Father and at times he would snuggle and be physically affectionate . . . with Father."[15] Additionally, Odin described limited interaction with the defendant. According to Odin, they typically do not do an activity together aside from going to the grocery store. He spends his time on electronics and watching television while the defendant is doing something in his office.

[14] Plaintiff's Ex. 25, p. 54.

[15] Id.

During his visits, Odin reported that the defendant routinely tells him negative information about the plaintiff. This also extends to the plaintiff's husband, whom Odin enjoys the company of. Dr. Smith concluded that this is one of the most destructive parenting behaviors. It weighs down the trust between the child and the parent being attacked. The child's reality is distorted because he does not know who to believe. Odin is being placed in the middle of the parties' conflict, and this can increase his level of stress and anxiety and be considered a traumatic event if it is happening a lot. Additionally, Odin reported when the defendant is mad, he yells. By Odin's report, the yelling occurred for a lengthy period, and he described it as continuous. Odin said he was afraid to the point of hiding and crying. He becomes worried that the defendant will become physically aggressive with him. Dr. Smith found the threshold and length of the defendant's behavior were outside the normalcy of parenting.

Odin has experienced trauma due to his parents' conflict and the defendant's continued maladaptive conduct. Odin described to Dr. Smith past domestic violence incidents between the parties. He shared his view of the incident on August 9, 2016 in which the defendant was arrested. Odin's account was similar to the plaintiff's account. During this incident, Odin went under his bed during their argument. The defendant was chasing after the plaintiff and yelling at her. At one point, the defendant grabbed Odin and tried to run with him. The plaintiff was able to "rescue" him from the defendant and she locked them in a room away from the defendant. Odin appeared to be exhibiting trauma symptoms when recalling this event.

4. Recommendations by Dr. Smith

Dr. Smith recommended interventions for the parties and the child and for her report to be shared with all mental health providers.[16] For Odin, he should be in weekly therapy with a clinician that specializes in trauma. The plaintiff should continue with her therapy and consider EMDR to address any lingering trauma effects due to her past relationship with the defendant. Her treatment should also include coaching and guidance on how to present information to the defendant and establish appropriate, yet flexible boundaries related to the defendant's parenting access.

Dr. Smith's recommendations for the defendant were more extensive given his pathology and psychological functioning. It was recommended that he engage in twice weekly therapy sessions. His therapeutic goals should be focused on his personality-based issues and reducing his high conflict personality style. He should also consider adding group therapy, EMDR therapy and a domestic abuse/trauma group. The defendant should consult with a neurologist and a psychiatrist regarding psychotropic medication. He is also in need of parenting support and guidance. This would include a supervisor for his visits with Odin to ensure that the maladaptive behaviors noted in his interactions with the child do not continue.

B. Department of Children and Families

On September 30, 2021, the Department of Children and Families (DCF) received an anonymous report. It was reported that Odin was at Little League and he was dragged off the field by the plaintiff. The caller was concerned that Odin may be injured and that mandated reporters witnessed the incident but did not call a referral to

[16] Plaintiff's Ex. 15, pp. 59–60.

DCF. There was also an allegation that plaintiff kept Odin in his room. DCF was unable to contact the anonymous reporter because no phone number was provided. DCF accepted the case as a family assessment referral (FAR).[17]

During the assessment, the investigation social worker, Lineth Santos, met with the parties, the child and O'Toole, and received collateral information from Odin's therapist, Dr. Grasso. Lineth noted that at her first home visit in the plaintiff's residence, the child was at ease in the presence of the plaintiff and O'Toole. He became apprehensive with Lineth when the discussing his relationship with the defendant and incidents when he became upset with Odin. At the second home visit, Odin appeared to be withdrawn, startled, anxious and troubled. Again, Odin hesitated to speak about his visits with the defendant. Odin gave Lineth a time limit and had an agenda with questions that he wanted to ask Lineth. Odin wanted to know if the social worker disclosed any of their conversation from the first home visit about his relationship with the defendant to him. Odin felt the defendant knew the context based on their last visit together. When he was done asking his questions, he did not want to discuss any questions that Lineth had for him. Lineth questioned the plaintiff as to Odin's changed behavior. The plaintiff noted that Odin displayed increased anxiety and regression after a visit with the defendant.

[17] DCF has two differential response systems. When a referral is screened by the DCF Careline, it is either a non-accept, FAR or investigation. A FAR does not rise to the level of high risk or abuse or neglect, but enough factors have been identified whereby there is the need to identify interventions and services to the family. The purpose of a FAR is not to investigate and conclude whether an individual should be substantiated for abuse or neglect. This is reserved for an investigation in which DCF is looking into allegations of abuse or neglect against a person who is in a caretaking role.

At the first home visit with the defendant, he dominated the conversation. He was preoccupied with his own agenda, providing Lineth with details about his life and his relationship with the plaintiff and the plaintiff's drinking problem. The visit was one and one-half hours. Lineth was unable to explain her role or review preliminary matters with the defendant as to the FAR process or the allegations in the referral.

Following these home visits, Lineth had concerns with Odin's emotional well-being. She had prior conversations with Dr. Grasso who noted that Odin's emotional needs were being ignored while in the defendant's care. This manifested itself with his bowel movements. Odin shared specifics about feeling upset about himself and what he was told by the defendant was untrue. He questioned his own ability to determine what is true after he speaks to his mother, Dr. Grasso or O'Toole and questions his own sense of reality. Odin referred to this as "gaslighting" with Dr. Grasso.[18] Odin also shared with Dr. Grasso that he has never been exposed to or touched by anyone despite it being brought forward to him by the defendant. Dr. Grasso concluded that this placed Odin in a place of anxiety and would prevent him from disclosing in the future.

DCF concluded that Odin was being impacted negatively due to the defendant's inability to engage and listen to Odin and parent effectively. DCF made the decision to change the FAR to an investigation. The outcome of the investigation was that the plaintiff was unsubstantiated for physical neglect. DCF found no concerns regarding her parenting or O'Toole's presence in the home. DCF also concluded that Odin was being emotionally cared for in the plaintiff's home. The defendant was substantiated for

[18] Odin understood this to mean when someone tells him something is true and then he finds out it is not, then he begins to question his reality and understanding of the truth.

emotional neglect, but he was not placed on Central Registry because he did not pose a risk to the health, safety or well-being of children.[19]

When the defendant learned of the substantiation, he contacted Lineth. He continued to perseverate and ruminate about the substantiation against him and why there was no physical neglect substantiation against the plaintiff. He shared with DCF an incident from 2016 in which he was allegedly attacked by the plaintiff. Lineth was on the phone with the defendant for an hour. His demeanor on phone to Lineth was similar to his interactions with the plaintiff, the court and Dr. Smith—speaking over her, dominating the conversation with his irrelevant agenda and requiring constant redirection.

Lineth found the way in which the defendant spoke to her to be concerning for Odin. He continued to ruminate about the past and was unable to move on from past events of which he had no control over. In hindsight, DCF would have recommended a mental health evaluation for the defendant before closing the investigation. It was clear to DCF that how he continued to present himself would mirror and impact Odin. His unaddressed mental health impacted his ability to recognize that he is exacerbating to Odin. Additionally, DCF would be concerned if Odin had more access with the defendant because Odin would be at further risk for emotional neglect. Any future risk could be mitigated by the defendant engaging in a mental health assessment and treatment, and any contact between the defendant and child to be in a supervised setting to observe their interaction. More importantly, all providers would need to be informed with one another regarding their individual work.

[19] Defendant's Ex. EE.

C. Domestic Violence

In their final year of marriage, the parties had two physical altercations. In both instances, the defendant alleges that the plaintiff was intoxicated and, therefore, her memory of the events was impaired. The court credits the plaintiff's testimony regarding these two instances. Although she admitted that she had one or two glasses of wine when the incident took place, the court does not credit the defendant's testimony that the plaintiff's recollection of events was poor due to intoxication.

The first physical altercation took place on or about January 5, 2016. The defendant placed Odin in time out. The plaintiff went over to comfort Odin and told him it was a misunderstanding and that he should not be in time out. She took Odin by the hand and went over to the defendant to explain what happened. The defendant became angry at her for taking Odin out of time out and began to rage. The plaintiff removed Odin from the escalating situation to his bedroom upstairs. Odin was scared. The two remained in the room, sitting on a futon. The defendant came into the room in what was described as a "rage" and stood over the plaintiff on the futon and continued to yell. The defendant was in the plaintiff's face. She put her feet up to push him away; he then grabbed her wrist and dragged the plaintiff out of the room.

The second physical altercation began on August 9, 2016. The plaintiff was sleeping in the guest room. The defendant came into the room and said he wanted to have sex. The plaintiff declined and asked to talk to him. She showed him papers that she printed from the Internet on Asperger's and narcissistic personality disorder. The defendant threw the papers and then proceeded to throw the plaintiff against the wall where she banged her head. He threw her on the bed where she hit her head again.

The defendant pinned her on the bed and continued to yell in her face. Odin was in the room across the hall and could hear the parties; he was crying. When the defendant left, the plaintiff grabbed Odin and took him back to the room and locked the door. The defendant continued to bang on the door. The plaintiff called the police. Odin was hiding under the bed, terrified of the defendant.

The domestic violence between the parties is not limited to these two physical altercations. The defendant has exhibited a pattern of coercive, controlling behavior over the plaintiff throughout their marriage and after their separation.[20] The defendant forced the plaintiff to have sex. He would wake her up in the middle of her sleep to argue about them not having sex. He belittled her about being a vegetarian to create a division with the child around food. He pressured her into selling her home in Lyons, Colorado. He limited her access to money and used her credit to run up debt. The defendant continues to use the court system to harass the plaintiff. This has resulted in her reduced ability to work and increased legal fees.

The defendant was arrested after the August, 2016 incident. A full no contact criminal protective order was issued with the plaintiff as the protected party. The plaintiff also applied for and was granted a restraining order in *Sakon* v. *Sakon*, Superior Court, judicial district of Hartford, Docket No. FA-16-4083622-S.[21] From the initial protective order, the defendant would be arrested multiple times for the charge of criminal violation of a protective order.[22] Sometime in November, 2018, the defendant

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[20] Plaintiff's Ex. 15, pp. 50–52. Dr. Smith documented over a dozen examples of the defendant's controlling and coercive behavior in the financial, physical, emotional, sexual and legal areas.

[21] Defendant's Ex. Z.

[22] Defendant's Ex. SSSSS; Ex. ZZZZZ; Ex. AAAAAA; Ex. BBBBBB; and Ex. CCCCCC.

was found not guilty after a jury trial. Thereafter, on January 3, 2019, the state requested a nolle of the defendant's pending criminal charges.[23] The defendant fails to recognize that a finding of not guilty or a nolle of pending charges in a criminal court is not dispositive of whether domestic violence was present in the parties' relationship or whether he exerted coercive control. Instead, the defendant feels vindicated. This has only fueled his narrative that he is the victim. He has gone to great lengths to prove this to both this court and outside with his complaint filings for what he claims were false arrests. However, the record here leads to the conclusion that there was domestic violence and coercive control exercised by the defendant over the plaintiff.

D. Plaintiff-Mother

The plaintiff is fifty-three years old. She lives in Manchester with Odin and her husband, Dennis O'Toole, whom she married in December, 2019. Despite the unsupported claims by the defendant, the plaintiff does not have a problem with alcohol abuse. The plaintiff's alcohol consumption is limited to one to two glasses on infrequent occasions. In 2016, she was drinking more regularly because of the marital conflict with the defendant.

The plaintiff was the primary caretaker for the child when the parties were living together. The court does not credit the defendant's claim that he was primarily responsible for the child's day-to-day care, nor does the court credit the plaintiff's position that the defendant was a completely absent parent. During their marriage, each party had different roles within the family dynamic. Specifically, the defendant was the primary working parent and income earner, and the plaintiff was, for the most part, a

[23] Defendant's Ex. EEEEEE.

stay-at-home parent. Their separate roles in the past are not singularly a significant factor in the court's custody determination, but, rather, the way they interacted with one another and with the child as further detailed within.

The plaintiff has been a victim of privacy invasion by the defendant. He will go to extreme measures to unravel any damaging information from her past. The defendant placed an advertisement in the Crestone Eagle publication in Colorado, posing as a private investigator seeking information about the plaintiff.[24] He attempted to contact the plaintiff's therapist, Sherry Osadachey, through LinkedIn. He has messaged the plaintiff's friends through emails and text messages. He used the child's bus route to uncover where she lived.

The plaintiff has sought treatment to address her domestic violence relationship with the defendant. Since 2014, she has been in weekly treatment with Osadachey. Osadachey diagnosed the plaintiff with post-traumatic stress disorder. The plaintiff has been committed to her treatment. She accepts responsibility for her situation and does not externalize blame. She focuses on addressing issues that are obstacles to her becoming the best person she can be. This includes her past relationship with the defendant. Her initial presentation was anger, rage and depression. These feelings have since passed.

E. Defendant-Father

Dr. Smith's diagnosis of the defendant with narcissistic personality disorder was not the first time he has received this diagnosis. The defendant was engaged in therapy with Robert Fogel prior to the custody evaluation. Fogel provided Dr. Smith with the

[24] Plaintiff's Ex. 3.

defendant's diagnosis of narcissistic personality disorder. One of the defendant's treatment goals was to develop his insights and emotional regulation so that he could obtain and keep the things that he valued the most. For the defendant, this was to have a loving and active relationship with Odin.

As of March, 2020, the defendant made limited progress because his anger was an obstacle to this goal. His anger was focused on the obstacles that he perceived were in his way. He blamed the plaintiff and institutions, e.g., the court. The defendant's anger would manifest itself into focusing on the behaviors of others who he believed were causing him to suffer. Fogel attempted to redirect the defendant by explaining to him how his anger could lead to behaviors that could cause more problems. Fogel suggested to him to stop acting out of anger and instead focus on improving relationships. At times, the defendant would listen to Fogel's suggestions by considering and trying them, but he could not maintain his focus on building a relationship with Odin. Instead, he reverted back to his pattern of externalization of blame based on what he believed were interferences regardless of whether they were rooted in any reality.

It is clear to this court that in sessions with Fogel, the defendant deflected blame, which is a characteristic of someone with NPD. He took no responsibility for his arrests. He focused his sessions on the plaintiff, which distracted from his goals to build a positive relationship with Odin and to modify his behavior. During his treatment, the defendant made some progress. There were periods of time when the defendant was able to work on his emotional regulations and there was improvement. At the same time, there was equal regression. The defendant regressed in his ability to display

empathy and seeing other people's feelings. There was no progress at all as to the externalization of blame regarding his conflict with the plaintiff and the obstacles to developing a relationship with Odin. He blamed others. Moreover, any progress made was not maintained by the defendant.

The defendant's last in-person session was in January, 2020. In March, 2020, the two had a phone conversation about the defendant's treatment. The defendant was unsure whether he wanted to continue in treatment and told Fogel that he would be in touch. The defendant has not followed up with Fogel. As of his last contact with the defendant, Fogel continued to recommend treatment for the defendant if he was looking to make any changes to his behavior and his environment.

The defendant spent an exorbitant amount of time at the hearing attempting to show that his criminal arrests were directedly related to the plaintiff's master plan of engaging in parental alienation. There was no plausible or credible evidence for the court to make this conclusion. Moreover, the defendant fails to recognize that a court found probable cause to sign a warrant for his arrests. The fact that the defendant was found not guilty by a jury, or the prosecutor, in his or her discretion, dismissed pending criminal charges, does not negate that the conduct happened.

It is clear to the court that throughout the custody dispute, the defendant has been more concerned with proving that an injustice has been committed against him by the plaintiff and the individuals and institutions involved in this case, whether directly or indirectly, than with advocating for an outcome that is in the child's best interest. This has revealed itself in the multiple lawsuits and/or complaints filed by the defendant, which includes the following: *Sakon* v. *Smith*, Superior Court, judicial district of Hartford,

CV-20-6136500-S; *Sakon* v. *Holiday Hill Day Camp*, Superior Court, judicial district of Hartford, CV-21-5069628-S; and against the state's attorney's office, state's attorney and the Glastonbury Police Department.

The defendant is also a high conflict individual. At the Renaissance Festival, a worker made a comment to the defendant about the aggressive way he was throwing tomatoes at a court jester in a game booth. The defendant fumed due to the comment. He walked the plaintiff and Odin, who was two years old, to the car, only to return to the festival and engage in a physical altercation with the worker. The police were called, and they escorted the defendant back to the car. In another incident, the defendant, who objected to the child attending the Holiday Hill summer camp, was arrested on the outskirts of the property.

This conduct is reflective of Dr. Smith's findings related to the defendant's narcissistic personality disorder. He is unable to communicate effectively with the plaintiff and others without conflict. His response to any request for compromise is to threaten litigation and exert control over the situation. His pathology for paranoia and conspiracy theories displayed itself at trial when he was adamant in his belief that Dr. Smith accepted a bribe in this case. Aside from this bold accusation, no other evidence was provided to the court on this accusation. In sum, the defendant has displayed no change in his psychological functioning which negatively impacts his parenting abilities; he has gained no insight into the obstacles that prevent him from becoming an effective parent; and fails to recognize the need to engage in treatment.

F. Child

The court has jurisdiction to enter custody and parenting orders as to the child. Connecticut is the child's home state. There is no case pending in any other jurisdiction or court that could affect the child's custody. The parties are living separate and apart from one another. Odin is ten years old. He is in the fifth grade at Glastonbury East Hartford Magnet School. Odin attends therapy with Dr. Damion Grasso. He previously attended therapy at the Klingberg Family Center. His therapy at Klingberg was discontinued, in part, after the defendant threatened to sue the agency if Odin continued with them.

By all accounts, Odin enjoys activities that are typical for his age. He enjoys reading, playing with Legos, trading Pokemon cards, and being outside with his friends. He enjoys physical activity—hiking, swimming, soccer, baseball and frisbee. He has a healthy relationship with his stepfather, Dennis O'Toole. The plaintiff, child and O'Toole routinely engage in activities together, which includes playing board games, cooking, reading and hiking. O'Toole has been a constant in Odin's life and has provided emotional and financial support to him. Unlike the defendant, in the plaintiff's description of Odin, the activities described were what the child enjoyed and not the plaintiff's choice. Odin enjoys playing sports, i.e., snowboarding, tennis and soccer. The plaintiff supports him in the sports that he is interested in, which is not necessarily baseball. He has other interests that the plaintiff has encouraged him to do like piano, singing, crossword puzzles and word searches. The plaintiff responds to Odin with empathy and patience, and reassures him that he is a good person and is loved.

The defendant's interactions with Odin stand in stark contrast. His court-ordered parenting time with Odin is on Tuesday and Thursday from after school until 5:30 p.m. and every Saturday from 1 p.m. to 4 p.m. This schedule has been in place since April, 2019. The child displays significant behaviors related to his visitation with the defendant. Leading up to and after his visits, the plaintiff describes the child as being anxious, nervous and clingy. This manifests itself with Odin becoming hyperactive. As of the start of trial, the child had frequent toileting accidents, at least three times a week, which included bowel movements and urination in his pants. He becomes obsessive with his hand washing; is afraid to go to the bathroom by himself; and is scared to be in his bedroom by himself. He experiences nightmares before and after visits. Odin hits himself after his visits and repeats that he is stupid. Odin has reported to his therapist, Dr. Grasso, that he hides under the bed after returning from a visit with the defendant. Dr. Grasso noted that this could be based on a traumatic incident that he is recounting with the defendant.

During the defendant's visits, the defendant has an inability to display appropriate boundaries. In early June, 2021, the defendant discussed the court process with Odin. He asked the child about speaking to the judge. Odin told the defendant that he did not want to speak to the judge and was unsure what he would say. Odin was upset about the defendant asserting this topic on him. This was not the first and only instance of this kind of oversharing by the defendant. The defendant freely admitted to Dr. Smith that he discussed the parenting plan with Odin and showed him court documents. He told Odin that the plaintiff wants to sever all ties between them. He provided Odin a copy of the court order allowing him to play Little League. He reviewed each of his arrests with

Odin because it was important for Odin to know the truth about the arrests and what the plaintiff did to him.

The defendant's poor parenting skills were present when the parties were living together. The defendant modeled his parenting based on a puppy training book. He referred to training puppies like raising Odin. The defendant referred to himself as the alpha and dominant member in the pack as to his relationship with Odin. As a young child, Odin was afraid of the defendant, often hiding and not wanting to go to him. The defendant would tower over Odin and yell at him and threaten to spank him. Additionally, he would exhibit irrational behavior toward Odin. The defendant wanted to expose Odin to his love for golf. When the defendant went to the golf course, he tied Odin to a stake in the ground. In another incident, Odin had scratches on his skin and the defendant insisted that they were cactus spines caught under the skin and pulled them out. The defendant unnecessarily gave Odin lice treatment. He medicated Odin for pinworm even after medical and school personnel indicated that Odin did not have them. These are but a few of the examples in which the defendant displayed a lack of empathy and irrational behavior related to his interaction with Odin.

The defendant lacks the ability to play an active and positive role in the child's life. He views Odin as an object to fulfill his needs rather than providing him with love and affection and respecting his feelings. Throughout the defendant's testimony, he described in detail the activities that he engages in with Odin. He has Odin doing deductive reasoning games so that he can master the skills for gifted individuals. The defendant selects advanced YouTube courses, like motion dynamics and combustion engines, for Odin to watch. He finds the school that Odin is enrolled in to be

subordinate to his standards and, therefore, works on different writing techniques with him and tracks his progress in school. There was nothing in the defendant's testimony that these were activities that Odin selected or enjoyed. These activities were selected by the defendant to meet his goals to ensure that Odin obtains a level of academic superiority like the defendant and Odin's adult brother.

These were similar observations made by Dr. Smith during her observation of the defendant and the child. According to Dr. Smith, usually a parent and child spend time interacting with one another. But this was not the case with the defendant and Odin. They functioned in parallel and not in interaction. Much of their interaction was separate. Odin would engage in his activities and the defendant in his own talk and activities. Odin made efforts to engage the defendant in an activity of his choice or to talk about a topic he initiated. However, the defendant's response was to ignore Odin or bring a topic that had nothing to do with Odin's statement. This is problematic from a psychological perspective because it will result in the child having a less intimate relationship with his or her parent. In Odin's case, it will limit how much Odin will connect and feel safe with the defendant without receiving this emotional support.

It would be negligent for the court to allow Odin to continue to be subjected to the defendant's maladaptive behaviors. This protracted custody case has allowed Odin to be continually exposed to the defendant's gaslighting, negative tirades about the plaintiff, oversharing of information and lack of emotional connection and support. Odin's current surroundings while in the defendant's care negatively impact his emotional well-being. The defendant is unable to recognize the real harm that his

conduct is causing Odin. Rather, the defendant is more interested in proving that he is right at all costs no matter who is negatively affected, even if Odin is at the center.

G. Relocation

As part of the court's custody determination, the plaintiff is also seeking to relocate. Relocation cases present some of the most difficult issues for a court to decide. "The interests of the custodial parent who wishes to begin a new life in a new location are in conflict with those of the noncustodial parent who may have a strong desire to maintain regular contact with the child. At the heart of the dispute is the child, whose best interests must always be the court's paramount concern. Those interests do not necessarily coincide, however, with those of one or both parents." *Ireland* v. *Ireland*, 246 Conn. 413, 421, 717 A.2d 676 (1998). "Trial courts frequently and regrettably must address situations in which no feasible solution is ideal." *Emrich* v. *Emrich*, 127 Conn. App. 691, 704, 15 A.3d 1104 (2011).

General Statutes § 46b-56d (a) provides: "In any proceeding before the Superior Court arising *after the entry of a judgment awarding custody of a minor child and involving the relocation of either parent with the child*, where such relocation would have a significant impact on an existing parenting plan, the relocating parent shall bear the burden of proving, by a preponderance of the evidence, that (1) the relocation is for a legitimate purpose, (2) the proposed location is reasonable in light of such purpose, and (3) the relocation is in the best interests of the child." (Emphasis added.) Here, the parties agreed to bifurcate the custody issue in the dissolution complaint. The parties agreed to dissolve their marriage, insofar as the result was a judgment that would finalize a division of their property and a declaration that they were single and

unmarried. It was clear from the parties that there was no intent to render judgment as to issue of custody and visitation. Thus, there has been no judgment entered awarding primary custody of the child to either parent; and, therefore, the statutory requirements set forth in § 46b-56d for a post-judgment motion for relocation are inapplicable. Instead, "relocation issues that arise at the initial judgment for the dissolution of marriage continue to be governed by the standard of the best interest of the child as set forth in § 46b–56." *Ford* v. *Ford*, 68 Conn. App. 173, 184, 789 A.2d 1104, cert. denied, 260 Conn. 910, 796 A.2d 556 (2002). The court may, however, consider and use the "best interest factors" set forth in § 46b-56d,[25] but they are not mandatory or exclusive in the judgment context.

The plaintiff testified that she never intended to live in Connecticut. She also wants to have a fresh start and protect Odin from the defendant's reputation. She wants to relocate to a co-housing community. The plaintiff describes a co-housing community to be a development where residents have a separate condominium-like residence but there are shared meals and organized projects several times a week. The purpose of the community is for the residents to help one another and for multiple generations to live together. The plaintiff believes that a co-housing community would be good for Odin and the plaintiff because more support would be readily available. The plaintiff has proposed that the child and the defendant would maintain contact with weekly phone calls and one to two supervised visits in Connecticut a year.

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[25] The court is further guided by factors in § 46b-56d (b) that "shall not be limited to: (1) Each parent's reasons for seeking or opposing the relocation; (2) the quality of the relationships between the child and each parent; (3) the impact of the relocation on the quantity and the quality of the child's future contact with the nonrelocating parent; (4) the degree to which the relocating parent's and the child's life may be enhanced economically, emotionally and educationally by the relocation; and (5) the feasibility of preserving the relationship between the nonrelocating parent and the child through suitable visitation arrangements."

The court cannot find based on the record before it that it is in the child's best interest to allow the plaintiff to relocate. The plaintiff has not identified a specific location. It is questionable to the court whether the plaintiff's interest in relocating to a co-housing community is less about what the community has to offer and more about her desire to separate physically from the defendant based on their conflicted history and this protracted custody dispute.

H. Motions for Contempt (#621 and #622)

"Contempt is a disobedience to the rules and orders of a court which has power to punish for such an offense." (Internal quotation marks omitted.) *Wilson* v. *Cohen*, 222 Conn. 591, 596 n.5, 610 A.2d 1177 (1992). "Civil contempt is committed when a person violates an order of court which requires that person in *specific and definite language* to do or refrain from doing an act or series of acts. . . . Whether an order is sufficiently clear and unambiguous is a necessary prerequisite for a finding of contempt . . . ." (Citation omitted; emphasis in original; internal quotation marks omitted.) *In re Leah S.*, 284 Conn. 685, 695, 935 A.2d 1021 (2007). "In a civil contempt proceeding, the movant has the burden of establishing . . . the existence of a court order and noncompliance with that order." (Internal quotation marks omitted.) *Marshall* v. *Marshall*, 151 Conn. App. 638, 651, 97 A.3d 1 (2014). Indirect civil contempt, as is alleged here, must be proven by clear and convincing evidence. *Brody* v. *Brody*, 315 Conn. 300, 316, 105 A.3d 887 (2015).

"To constitute contempt, a party's conduct must be wilful. . . . Noncompliance alone will not support a judgment of contempt. . . . A finding that a person is or is not in contempt of a court order depends on the facts and circumstances surrounding the

conduct. The fact that an order has not been complied with fully does not dictate that a finding of contempt must enter. . . . [It] is within the sound discretion of the court to deny a claim for contempt when there is an adequate factual basis to explain the failure to honor the court's order." (Internal quotation marks omitted.) *Bauer* v. *Bauer*, 173 Conn. App. 595, 600, 164 A.3d 796 (2017).

The plaintiff has filed two motions for contempt. In her first motion for contempt (#621), dated May 19, 2021, she claims that the defendant has wilfully violated the court's order related to child support (#216). The court's order provided: "the current child support order of $142.00 per week shall remain in effect and the arrearage shall continue to accrue until 6/1/18, at which time the weekly payment will commence and the arrearage will be paid .. . ." In her second motion for contempt (#622),[26] the plaintiff claims that the defendant violated the June 29, 2017 order (#176) in which the court, *Simon, J.*, entered an order granting the plaintiff "temporary sole decision-making over the child's involvement in camp and therapy." On October 21, 2020, the court, *Connors, J.*, reaffirmed its June 29, 2017 order (#438.15). The court finds that these orders are clear and unambiguous.

The plaintiff claims that the defendant has neither paid his weekly child support obligation since October, 2018, nor has he made any payment towards the arrearage. In April, 2021, the plaintiff began receiving $588.40 per month in social security benefits for Odin. (Ex. 10). In previous financial affidavits, signed December 14, 2020 (#509) and May 13, 2021 (#616), the plaintiff received $145 per week in social security benefits for the child. Based on her financial affidavit from February 9, 2022, the plaintiff

[26] On December 20, 2021, the plaintiff withdrew section I in the motion for contempt related to visitation.

received $135 per week in social security benefits for Odin (#816). The plaintiff testified that the defendant stopped paying his child support before she began collecting social security on behalf of the child and did not pay the $1420 amount agreed to in the April 3, 2018 agreement. She provided no additional evidence as to the weekly child support arrearage amount.

The defendant applied for social security benefits prior to entering into the April, 2018 dissolution agreement. The defendant began collecting social security soon thereafter. The defendant believed that he would receive the child's portion, and then he would then send to the plaintiff her share. He was later informed that the plaintiff had to apply for the child's benefit. The defendant provided this information to the plaintiff.

Here, the plaintiff has not met her burden of proof to show by clear and convincing evidence that the defendant's conduct was wilful. The defendant believed that the social security portion for the child covered his child support obligation. The court is mindful that the more prudent course of action would have been for the defendant to file a motion for modification to recalculate the child support order based on his receipt of social security and to verify the child's receipt by the plaintiff. The plaintiff's motion for contempt (#621) is denied. However, the court shall issue remedial orders as set forth in section IV.

The plaintiff also claims that the defendant has wilfully interfered with the child's therapy and summer camps. On April 4, 2019, the defendant sent a facsimile to the Klingberg Center where the child was receiving therapeutic services. (Ex. 6). In the facsimile, the defendant informed Klingberg that there was no agreement by him for this service and that it was contrary to a court order. The defendant attached a February 8,

2018 court order and stipulation by the parties (#199 and #199.01) in which the child would continue in therapy with Dr. Grasso unless otherwise agreed upon by the parties or by court order. As a result of the facsimile, Klingberg Center discontinued services for Odin. The defendant believed that the February 9, 2018 order superseded the prior June 29, 2017 order. On the other hand, the plaintiff continued to believe that she had the sole decision-making authority based on the June 29, 2017 order. It was not until October 21, 2020, that the court reaffirmed the June 29, 2017 order. The court cannot find that the defendant wilfully violated the June 29, 2017 order when there was a subsequent order based on the parties' stipulated agreement that modified the plaintiff's temporary sole decision-making authority.

In the summer of 2021, the child attended camp at Holiday Hill Camp. The basis for her motion for contempt is that the defendant unilaterally enrolled the child in a summer camp in 2021 against her wishes and during a week that the child was enrolled at Holiday Hill Camp. Per court order, the plaintiff had the sole decision-making authority for summer camp. Nothing in the record suggests that she was unable to exercise this authority. The defendant may have signed up the child for a different summer camp but that did not impede the plaintiff from exercising her court-ordered discretion. Therefore, the plaintiff's motion for contempt (#622) is denied.

IV

ORDERS

A. Custody and Parental Access

1. Custody. The plaintiff shall have sole legal and physical custody. The plaintiff shall have sole decision-making authority as to the child's school,

extracurricular activities, sports, camps and medical care to include medical, dental, psychiatric and therapeutic care. The defendant shall not enroll the child or schedule appointments for the child in those areas in which the plaintiff has sole-decision making authority. The defendant shall not interfere with the child's participation and engagement in the areas in which the plaintiff has sole-decision making authority. This shall include contacting, either by written, electronic or in-person communication, the providers or organizations to harass them.

2. Parenting Access.

a. The defendant shall have twice weekly supervised access with the child on Wednesday from after school or 3 p.m. if there is no school until 7 p.m. and on alternating Saturdays from 10 a.m. to 2 p.m.

b. The supervisor shall be a third-party therapeutic supervised visitation agency. The cost shall be paid by the defendant.

c. The defendant's parenting access shall begin once he has provided proof to the plaintiff and/or her counsel of record that he is engaged with a clinician who has the skills and training to address. narcissistic personality disorder. The defendant shall provide proof of his engagement in treatment to the plaintiff and/or her counsel of record on a quarterly basis.

d. The defendant's access shall not be expanded or modified until a motion to modify has been filed to the court with a request for leave and a showing that he has exercised at least 75 percent of his

parenting access and engaged in regular and consistent treatment for at least one year, which includes, but is not limited to the following: a clinician who has the skills and training to address narcissistic personality disorder; consultation with a psychiatrist and neurologist; and group therapy for domestic abuse/trauma

e. Regular and consistent attendance alone shall not warrant an expansion or modification absent a showing of sustained progress made towards treatment goals.

f. Any motion to modify the parenting access by the defendant shall include a request for leave and a signed and sworn to affidavit.

g. The defendant may not participate in any of the child's extracurricular and sporting activities until he has satisfied the provision in IV.A.2.d.

3. Relocation. Neither party shall relocate with the child outside the State of Connecticut without the prior order of the court permitting such relocation. If either party plans to move from the town in which he or she is then residing to another town within the State of Connecticut, such party shall provide the other with at least sixty (60) days written notice of the change of address.

4. Our Family Wizard (OFW). The parties shall continue to utilize OFW to communicate as to matters affecting the child and their respective parenting time, and notifications required by these orders and related issues. They shall share equally in the expense thereof. The foregoing

shall not be construed to prohibit the parties from communicating by other means in addition to OFW if the circumstances so warrant, such as an emergency. Each parent shall respond to any requests made by the other parent on OFW within forty-eight (48) hours of such request. Each parent shall notify the other by telephone of any emergency situation involving the child, when circumstances reasonably allow, by additional notification via OFW.

B. Child Support

1. Weekly Support Payments. Based on the Child Support Guidelines (#884), the court finds the presumptive child support amount payable by the defendant to the plaintiff is $12 per week based on the defendant's weekly net income of $618 and the plaintiff's weekly net income of $216. The court orders that the defendant pay to the plaintiff this weekly child support amount beginning the next Friday after the date of this judgment.

2. Medical Insurance. Both parties shall provide medical and dental insurance for the benefit of the child if it is available to them at a reasonable cost which is defined as no more than 5 percent of their net income. The provisions of General Statutes § 46b-84 (e) are incorporated by reference.

2. Unreimbursed Medical Expenses and Work-Related Childcare Expenses. Based on the Child Support Guidelines, the court finds the presumptive contribution for unreimbursed medical expenses and dental expenses and work-related childcare expenses is the following: plaintiff (46 percent) and

defendant (54 percent). Each party shall provide to the other a monthly report of such expenses paid or billed during the previous month; each parent shall promptly pay to the provider or reimburse to the other parent that parent's share of such expenses within fourteen (14) days of receipt of the bill.

3. Educational Support. The court will retain continuing jurisdiction regarding post-majority educational support pursuant to General Statutes § 46b-56c.

4. Life Insurance. To the extent that it is available at a reasonable cost, the parties shall each obtain and maintain a life insurance policy with a death benefit of at least $50,000 for so long as the child is a minor or the court continues to have jurisdiction to enter orders regarding post-majority educational expenses. The irrevocable beneficiary of each such policy under which each party's life is insured shall be designated so that it is for the benefit of the child. Each party shall provide to the other, in writing, within ninety (90) days of the date of judgment and then on each anniversary of the date of judgment, proof of the life insurance coverage he or she is ordered to maintain.

C. Taxes

The parties shall alternate claiming the child as an exemption/dependent for all income tax purposes. The plaintiff shall claim the child in even tax years and the defendant shall claim the child in odd tax years. The defendant's ability to claim the child as an exemption/dependent is contingent on him being current on his child support and arrearage payment as of December 31 in the odd tax year in which it is allocated to

him. On or before February 1 of each year, the party not claiming the child in any given year shall sign and provide to the other party IRS Form 8332, or any other declaration required by the IRS, to implement the terms of this order.

Notwithstanding any other provision of these orders, each party shall be responsible for any taxes, penalties, interest, claims or deficiencies attributable to such party's own illegal activity or misreporting of income or deductions and shall hold the other party harmless therefrom.

D. Pending Motions

1. Plaintiff's motion for contempt (#621) re: child support is DENIED. The court issues remedial orders as follows:
    i. The plaintiff shall calculate the difference for any period in which she has received social security payments for the child that has been less than the April 3, 2018 court ordered child support amount of $142 per week. For example, if the plaintiff received $135 per week in social security payments for the child, then she is owed an additional $7 from the defendant. This amount shall be calculated from April 3, 2018, up until and including the week of this judgment.
    ii. Within thirty (30) days of this judgment, the plaintiff shall provide the defendant with an accounting of any deficiency and proof thereof based on social security benefit letters for payments on behalf of the child or deposit receipts. The parties may request a hearing solely on the calculation of the arrearage based on the court's order.

iii. The defendant shall pay to the plaintiff the $1420 arrearage amount agreed upon by the parties on April 3, 2018, within ninety (90) days of this judgment.

iv. The defendant shall pay any arrearage amount calculated in D.1.i and/or D.1.ii within ninety (90) days of the court affirming such amount or as otherwise established by the court at a hearing.

2. Plaintiff's motion for contempt (#622) re: interference with summer camp and therapy is DENIED.
3. Plaintiff's motion for Attorney Fees (#623) is DENIED.
4. Plaintiff's motion for order re: relocation (#624) is DENIED.
5. Defendant's motion for order re: Farmington School (#670.20) is DENIED
6. Plaintiff's motion for counsel fees (#837) is GRANTED. The defendant is ordered to pay $6119.25 to the plaintiff's counsel within 120 days of this judgment. The defendant's objections (#862 and #864) are OVERRULED.

E. Legal Fees

Each party shall be responsible for the payment of his or her own legal fees except as set forth in section IV.D.6.

F. Outstanding Fees Owed to Dr. Smith

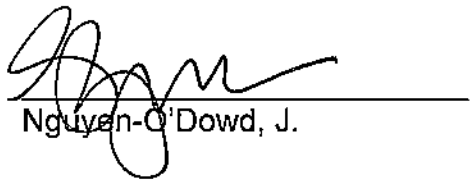
The parties shall share equally in the remaining balance owed to Dr. Smith for the custody evaluation.

G. Parenting Education Program

Any party who has not completed the required parenting education program is ordered to do so within three months after the date of judgment by completing an appropriate in-person or internet-based program.

SO ORDERED.

BY THE COURT,



Nguyen-O'Dowd, J.