

DOCKET NO.: KNO-FA23-6109063-S

SUPERIOR COURT

KRYSTAL WOODS

J.D. OF NEW LONDON

V.

AT NORWICH

MICHAEL CONTRERAS

MAY 16, 2024

**MEMORANDUM OF DECISION**

The parties appeared before the undersigned on May 14, 2024 for a trial relating to the custody, access and support of their minor children, who are four and eight years old. Both parties were self-represented. The Court has fully considered the criteria of General Statutes §§ 46b-56 and 46b-56c, the Rules of Practice §§ 1-27 as well as the evidence, applicable case law, the demeanor and credibility of the witnesses in reaching the decisions reflected in the orders that issue in this decision. The Court has taken judicial notice of all pleadings in the court file. The financial affidavits of the parties are ordered unsealed pursuant to Practice Book § 25-59A (h) as this is a contested matter.

**FACTUAL FINDINGS**

The court finds that the following facts were proven by a preponderance of the evidence:

1. The parties, never married, have two children aged four and eight.
2. The parties lived together commencing February 2015 until April 2023 when the defendant relocated to Jacksonville, Florida for a lucrative employment opportunity.

**FILED**

MAY 16 2024

SUPERIOR COURT  
NEW LONDON JUDICIAL DISTRICT  
AT NORWICH

5/16/24 M. WENT

SENT TO ALL PARTIES OF RECORD

3. The mother lives in Mystic, Connecticut with the two minor children and operates her own coaching and education business working remotely between 20 and 30 hours per week while being essentially a full-time and single parent for their children.
4. Since relocating to Florida, the father has made good efforts at maintaining contact with the children both virtually and with visits to Connecticut. The children have not yet visited Florida.
5. To their credit, the parties seem to agree on more than they disagree.
6. The parties agreed that the children should reside with the mother and visit with the father and that the father should have access with the children both in Connecticut and in Florida and that the father should have frequent FaceTime with the children.
7. The mother is seeking final decision-making authority, and the father did not file any proposed orders so it is unclear as to his position on that issue.
8. The mother is seeking an order that the children continue to attend private school in Rhode Island arguing that both parents are the product of private school, that the private school cost is similar to full-time daycare and that private school is superior to public school. The father argues that he cannot afford child support, travel to and from Connecticut for visitation and private school.
9. The parties disagreed slightly regarding the child support figure. The Child Support Guidelines give a presumptive child support figure of \$445 per week from the father plus 57% of any unreimbursed medical expenses and work-related daycare. Currently,

the father is paying, by choice, \$2,250 per month or \$523 per week (one month divided by 4.3). He wants to pay \$2,000 per month, or \$465 per week, which is greater than the Child Support Guidelines.

10. The mother argues that he should pay more than the Guidelines since she is in essence a single mother without the typical help from the other parent on a weekly basis. The father argues that he should pay less because he will be incurring extraordinary travel expenses which he has volunteered to provide.

11. The Court does not find that a deviation is called for under the law.

12. The upcoming summer visitation with the father was a major point of contention. The father was seeking a three week visit with the children in Florida whereby he would drive them both ways. The mother argued convincingly that the children have never been away from her for any extended period of time and that three weeks is probably too long for the first out of state visit. Ultimately, the parties were able to agree to the Court's suggestion that the children would fly down with the mother on June 29, 2024 and the father's access would begin. After one week, the children would spend a day with the mother in Florida as a buffer and then the children would return to the father's care for an additional week. He would then drive the children back to Connecticut spending three days traveling and visiting tourist sites, returning the children on or about July 16. The father agreed to provide an itinerary of the 2 ½ week visit and

provide a nightly FaceTime call to the mother. He also agreed that he would not leave the children alone with his father as the caregiver but would be working from home on the days that he needed to attend to his work.

13. The father agreed that he would be solely responsible for the children's flights and ground transportation but that the mother would pay for her own plane tickets.

14. The parties agreed that the father would visit with the children during the Columbus Day long weekend in Connecticut and the parties agreed that the father could visit with the children in Connecticut anytime with 14 days advance notice.

15. The parties agreed that the children could spend their school spring vacation in Florida with the father and he would be responsible for the transportation but that he would give the mother 30 days advance notice.

16. The parties agree that Christmas vacation would be defined as Christmas Eve until New Year's Day at noon. The parties agreed that the children would spend this time with the father in Florida in even years and with the father in Connecticut in odd years.

17. The parties agreed that neither would be disrespectful to one another nor disparage the other parent in the children's presence nor permit others to do so.

18. The question of private school versus public school is an issue that the parents were not able to agree upon. Currently, the children attend the Meadowbrook Waldorf school in Rhode Island. For the two children the cost is approximately \$23,000 per year. The parties were given a scholarship or tuition adjustment bringing the current year down to \$15,700. There is no guarantee that this tuition adjustment will be afforded in the future.

19. Both parents are educated and want the best for their children. The father believes that he is unable to afford the cost of private school in addition to the travel expenses for visitation and child support. The mother makes one third of the income of the father but has somehow struggled to pay for private school and is committed to keeping them in private school.

### LEGAL DISCUSSION

Following the court hearing, the Court conducted its own legal research on the question of whether it has the authority to order that parents send their children to private school. The Court has identified three Appellate Court cases which stand for the proposition that a court **may** (emphasis provided) order that parents pay for private schooling if the circumstances warrant. These decisions hold that it is within the sound discretion of the court considering the totality of circumstances including the financial ability of the parties, the availability of public schools, the schools attended by the children previously and the special needs, if any of the children. See, *Thunelius v. Posacki*, 193 Conn. App. 666 (2019), *Carroll v. Carroll*, 55 Conn. App. 18 (1999), *Flynn v. Flynn*, 7 Conn. App. 745 (1986). The court in *Carroll v. Carroll*, *supra*, emphasized “the right of the custodial parent to make educational choices is... an insufficient basis, absent a showing of special need or some other compelling justification, for increasing the support obligation of the noncustodial parent who genuinely doubts the value of the program that he is being asked to underwrite.” *Id* at 25. The Court was presented with no facts to suggest that the public schools in Mystic, Connecticut are inadequate or would in any way fail to deliver a quality education to the children. Moreover, while the parties may have

agreed when they were an intact family that their children should attend private school, that is no longer the case; they are no longer an intact, two income family. The parties each earn a good living with the father earning \$160,000 per year and the mother earning \$50,000 per year but neither of them have any savings, retirement accounts or college savings for their children. The father has in excess of \$29,000 in unsecured debt and the mother is a self-employed entrepreneur with no job security. Thus, the Court is unable to conclude that these parents can afford private school for their children or that it is necessary.

#### **ORDERS**

1. The parties shall enjoy joint custody with primary residence in the mother.
2. The parties shall confer with one another on major parenting issues but if they are unable to reach an agreement, the mother shall have final decision-making authority.
3. The father shall pay child support in the amount of \$465 per week and 57% of any unreimbursed medical expenses, work-related daycare and agreed-upon extracurricular activities, with the mother paying 43%.
4. For summer, the father's access shall begin with the mother flying the children to Florida on June 29, 2024. After one week, the children shall spend a day with the mother in Florida as a buffer and then the children shall return to the father's care for an additional week. He shall then drive the children back to Connecticut spending three days traveling and visiting tourist sites, returning the children on or about July 16. The father shall provide an itinerary of the 2 ½ week visit and provide a nightly FaceTime call to the mother. He shall not leave the children alone with his father as the caregiver but shall be working from home on the days that he

needed to attend to his work. For summers in the future, the parties may follow this protocol or adjust it by written mutual agreement.

5. The father shall be solely responsible for all of the children's flights and ground transportation, but the mother shall pay for her own plane tickets.

6. The father shall visit with the children during the Columbus Day long weekends in Connecticut and the father may visit with the children in Connecticut any time with 14 days' advance notice.

7. The children shall spend their school spring vacations in Florida with the father and he shall be responsible for the transportation but he shall give the mother 30 days' advance notice.

8. Christmas vacation shall be defined as Christmas Eve until New Year's Day at noon. The children shall spend this time with the father in Florida in even years and with the father in Connecticut in odd years.

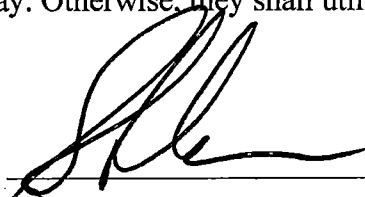
9. Neither parent shall be disrespectful to one another nor disparage the other parent in the children's presence nor permit others to do so.

10. The mother shall be entitled to a FaceTime visit with the children each night when the children are in the father's care.

11. The father shall be entitled to a FaceTime visit with the children on Mondays, Tuesdays and Fridays between 7 and 8 PM when the children are in the mother's care.

12. The parties shall communicate regarding the children by email and the parties shall respond to emails regarding the children within 48 hours.

13. When the father is transporting the children by car to or from Florida, he shall give an itinerary of the travel to the mother.
14. The parents shall not be obligated to send the children to private school and the mother's final decision-making authority will permit her to enroll the children in private school over the father's objections, at her own expense.
15. Both parents shall be entitled to access to the children's curricular, extracurricular and health care records. Both parents shall be listed as a contact person at all such institutions. The mother shall provide the father with a list of all healthcare providers and keep that list updated.
16. The mother shall be entitled to the child tax credit for both children each year.
17. Each parent shall maintain medical insurance for the children if it is available through their employer at a cost not to exceed 7.5% of their net pay. Otherwise, they shall utilize Husky insurance.



---

Shluger, J.