

FILED

JUN 12 2024

SUPERIOR COURT
NEW LONDON JUDICIAL DISTRICT
AT NORWICH

DOCKET NO.: KNO- FA22-6107882-S	SUPERIOR COURT
TU-ANH VAKILI	J. D. OF NEW LONDON
V.	AT NORWICH
DANIEL VAKILI	JUNE 12, 2024

**MEMORANDUM OF DECISION REGARDING PLAINTIFF'S MOTIONS TO
MODIFY (180.00 and 184.00) AND PLAINTIFF'S MOTION FOR CONTEMPT (186.00)**

BACKGROUND

A review of the record reveals that the parties were divorced pursuant to a marital dissolution agreement and parenting plan dated November 13, 2023. In relevant part, the agreement provides for a joint shared equal custody of their minor child born June 18, 2013, and that the plaintiff would pay child support in the amount of \$400 per week and alimony in the amount of \$300 per week for a period of six years, that the defendant would enroll in therapy and that the parties would enroll their daughter in therapy.

The parties and the court appointed GAL appeared before the undersigned on June 3, 2024. The wife was represented by counsel and the husband was self-represented. The defendant was ordered to file an updated financial affidavit by June 10, 2024, which he did.

FACTUAL FINDINGS

The court finds proven:

1. The plaintiff proceeded on two motions for modification, the first motion (180.00) asked that she be awarded sole custody or in the alternative that she be given final decision-making

*6/12/24 - mailed to all parties of the record - All from AC
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authority regarding the child. The second motion (184.00) asked that her court ordered child support and alimony be reduced due to a change in her financial circumstances.

2. The plaintiff claims and the court finds proven that there is a great deal of friction between the parties and that the defendant is immensely difficult to deal with, finds fault with almost everything that the plaintiff does, makes even simple issues complicated and denigrates her directly, to the child and even involving the child's teacher in his criticisms.

3. The defendant has been represented by four different attorneys during the brief period of time since the inception of this case, and at this hearing was self-represented. The defendant is a nonpracticing attorney, admitted to practice in the state of New York.

4. The parenting plan provides that the child shall "immediately be enrolled in counseling to assist her in the processing of the divorce, coparenting and any other issues deemed appropriate by the counselor."

5. The parties have had no success in getting their child into therapy. There have been three therapists hired who began therapy but who were either fired or terminated the relationship, in large part due to the father's many demands.

6. The father claims that the child does not need therapy and that her problems are primarily with the mother.

7. Both the Guardian Ad Litem and the mother believe that the child needs therapy to cope with the divorce and the changes which it has caused. Moreover, it is part of the divorce agreement.

8. The child has exhibited behavioral and social issues at school.

9. The court finds that the most efficient and effective way to get the child into therapy is to give the mother the authority to select a therapist and begin the process.

10. The mother is seeking an order of sole custody or final decision-making for all issues. The court finds this to be premature and unnecessarily provocative given the difficult relationship between the parties. The court finds it likely that if the mother had such control, it would be abused, and the father would be sidelined from his role as the concerned and involved parent which he is.

11. With some friction, the parties have been able to successfully navigate their disputes in arriving at decisions pertaining to the child. For example, they were able to agree that the child would attend school in Old Lyme, Connecticut. The parties were also able to ultimately agree that the child could attend a one-week sleep away camp on one of the mother's summer weeks. There was no evidence that the parties have had difficulty selecting a doctor or dentist for the child and they have been able to agree on extracurricular activities such as skiing.

12. The Guardian Ad Litem has been working as a referee or buffer helping the parents reach agreements and stay out of court. She shall continue in that role as needed.

13. The Guardian Ad Litem (GAL) testified that she believes it would be in the child's best interest for the mother to have final decision-making authority only regarding the child's therapy and that the court should go no further at least at this time.

14. The court agrees with the GAL in this regard however, the father is cautioned that he has been treading precariously close to the line where continued friction will result in the mother having either final decision-making authority or sole legal custody.

15. The second motion for modification addresses the financial issues whereby the mother is seeking a downward modification of her court ordered child support and alimony.
16. At the time of the dissolution, the plaintiff was employed at Pfizer earning \$5,628 per week gross or \$293,000 per year and the defendant was earning \$849 per week gross at the U.S. Patent and Trademark Office working only 20 hours per week.
17. On December 15, 2023, the plaintiff was notified of an involuntary layoff for herself and a large part of her department effective February 12, 2024.
18. As a result, the plaintiff filed a motion to modify alimony and child support dated April 4, 2024.
19. The plaintiff promptly commenced a vigorous job search applying to over 100 entities.
20. The plaintiff was hired by a startup, Perspective Therapeutics, on April 26, 2024 with a start date of May 20, 2024.
21. The plaintiff's new income is \$206,000 per year or \$4,038 per week gross.
22. The plaintiff has paid all her court ordered support and alimony while awaiting this decision.
23. Despite having several months to prepare for this hearing and complaining vigorously about the wife's failure to provide certain financial information, the husband neglected to file an updated financial affidavit at the time of the hearing.
24. The husband had filed a financial affidavit dated April 1, 2024, whereby he shows a gross income of \$877 per week working just 24 hours per week. He also shows weekly dividend income of \$14 and interest of \$381 per week.

25. Since the dissolution, the father has purchased a four or five bedroom home in Lyme Connecticut for \$555,000 with no mortgage and a new Toyota Camry with no loan. As a result of the divorce, he still has \$171,000 in the bank, \$13,000 in stock, \$205,000 in retirement assets and bitcoin valued at \$33,000.

26. When questioned by the court, the defendant was unable or unwilling to disclose his earned income. He argued that he has been unable to work a full-time job given the demands of this court case which the court finds unconvincing. The plaintiff has the same parenting time as the defendant, works a demanding job and prepared for the very same case.

27. Since the dissolution on November 13, 2023, the parties have been in court only once on April 3, 2024 and then for this hearing on June 3, 2024.

28. The court finds no reason that the defendant cannot work a full-time job.

29. The plaintiff offered the defendant's paystub (Exhibit 11) for the week ending March 23, 2024 which shows an annual salary of \$97,838 or \$1,882 per week gross which the court finds to be the defendant's earning capacity. The defendant's new financial affidavit shows this figure as his weekly income plus interest and dividend income.

30. The plaintiff offered a child support guideline worksheet showing the wife's earned income of \$4,038 per week gross and the husband's earning capacity showing \$1,882 per week gross.

31. The presumptive child support from said guideline suggests a child support from the plaintiff of \$329 per week plus 28% of any unreimbursed healthcare expenses.

32. This child support guideline also shows that the wife earns 68% of the total family income and the husband earning 32% of the total family income.

33. At the time of the dissolution, the wife was earning \$5,628 per week and the husband was earning \$849 per week gross demonstrating that the wife was earning 84% of the total family income and the husband was earning 16% of the total family income.

34. The court finds proven that there has been a substantial change in circumstances in the wife's income through no fault of her own and that she has made diligent and successful efforts at obtaining new, albeit less, lucrative compensation.

35. The court finds that the husband is intentionally underemployed and that there is no reason for him to not be earning his full salary, particularly since the only reason he gave for working only parttime was this court case which is now completed.

36. The final issue pertains to the defendant's failure to be engaged in counseling.

37. The court finds that many of the disagreements and frictions between the parties could be reduced if the defendant was successful in mental health counseling.

38. The dissolution agreement provides "father shall immediately enroll in counseling with a counselor of his choice to address the processing of the divorce, coparenting and any other issues deemed appropriate by the counselor. Each party (the plaintiff was already in counseling) shall follow the recommendations of their counselor in terms of the frequency and duration of their sessions and shall sign a release to allow the GAL to communicate with the provider."

39. The defendant engaged with two therapists and is currently receiving no treatment. The first therapist, Jessica Russo, discharged him but suggested that he treat with a male therapist

instead of herself to address “the maladaptive patterns that contribute to his mandate for therapy.”

40. The defendant’s second choice of therapist was one with a specialty in alcohol and drug counseling who concluded that the defendant did not have “any substance use disorder and as a result, therapy is not medically necessary at this time.” The court finds that this therapist was simply screening the defendant for substance abuse and concluded that he had none and could offer no service.

41. The court will reiterate in its orders that mental health counseling for the defendant shall commence with all due haste.

42. The defendant had filed several motions for contempt which he elected to waive and not proceed with. Those motions are deemed withdrawn with prejudice.

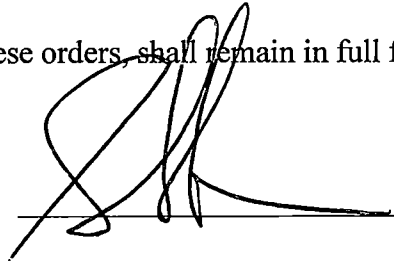
ORDERS

1. The parties shall continue to enjoy joint legal and physical custody of the minor child pursuant to their parenting plan with the exception that the plaintiff shall have final decision-making authority regarding the child’s therapy and shall be empowered to select a therapist for the minor child.

2. Both parents shall firmly encourage their child to attend the therapeutic sessions until successfully discharged by the therapist. If invited by the therapist, the parents, separately or together as the therapist suggests, shall participate in the therapy.

3. Both parents shall sign whatever authorizations the therapist or Guardian Ad Litem deems necessary.

4. Neither parent shall disparage the other in the presence of the child and neither parent shall communicate negative or disparaging comments or information to third parties including but not limited to educators, therapists and healthcare providers.
5. The Guardian Ad Litem shall suggest three mental health professionals for the defendant, and he shall select one from that list. He shall provide to that therapist a copy of this decision. He shall continue with therapy until successfully discharged.
6. The plaintiff shall pay child support in the amount of \$329 per week.
7. The plaintiff shall pay alimony in the amount of \$150 per week for the duration of its term.
8. The Guardian Ad Litem shall continue in her role and be compensated as per the previous orders to assist the parties in their difficulties.
9. All other orders, not inconsistent with these orders, shall remain in full force and effect.

A handwritten signature in black ink, appearing to be 'J. Shulger', written over a horizontal line.

Shulger, J.