

DBD-FA-23-6045332-S

: SUPERIOR COURT

NICOLE TAVARES

OFFICE OF THE JUDICIAL DISTRICT
SUPERIOR COURT
OF DANBURY

V.

2024 JUN 11 P 2:55

DAVID TAVARES

JUDICIAL DISTRICT
DANBURY
STATE OF CONNECTICUT
: JUNE 11, 2024

MEMORANDUM OF DECISION

Before the court is the dissolution of marriage action filed by the plaintiff-wife, Nicole Tavares, on February 10, 2023, bearing a return date of February 21, 2023. The defendant-husband, David Tavares, was served with the dissolution complaint on February 6, 2023. The court heard evidence on February 20, 2024.

Upon careful consideration of the evidence presented and the pertinent statutory law, in particular, General Statutes §§ 46b-40, 46b-56, 46b-56c, 46b-81, 46b-82, 46b-84, and the relevant case law, and having observed the demeanor and assessed the credibility of the witnesses at trial, the court makes the following findings. All court findings are made by the preponderance of the evidence standard.

FACTS

The court finds the following. The plaintiff-wife resided in Connecticut for at least twelve months prior to filing the dissolution complaint and this court has jurisdiction over this matter. The plaintiff-wife and the defendant-husband married on November 18, 2006, at Danbury, Connecticut. The marriage has broken down irretrievably with no hope of reconciliation. The family is receiving HUSKY insurance from the State of Connecticut. The Office of the Attorney

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General was notified of the pendency of this action. The Office of the Attorney General filed an appearance and filed proposed orders. The plaintiff-wife's birth name is Nicole Peterson. The plaintiff-wife is not pregnant. There are six children born of this marriage, Derrick P.T., born on October 20, 2003, is age twenty; Alexis M.T. born on May 11, 2007, age seventeen; Isabella G.T, born on Aug 28, 2008, age fifteen; Sophia O.T. born on February 22, 2012, age twelve; Logan D.T., born on May 5, 2014, age ten; and Brayden L.T. born on Oct 26, 2016, age seven. If the plaintiff-wife and defendant-husband would have remained together, they would have provided support for the children's post high school education. Neither the plaintiff-wife nor the defendant-husband completed the court ordered parenting education classes.

The parties both attended Henry Abbot Technical high school in Danbury Connecticut. The plaintiff-wife was unable to earn a certification in hairdressing as she planned due to her pregnancy. The defendant-husband graduated high school with a concentration in automotives. Prior to the marriage, the plaintiff-wife, the defendant-husband, and their first child lived with the defendant-husband's parents. The plaintiff-wife and the defendant-husband purchased the plaintiff-wife's parents' house where they remained for approximately ten years until they sold the house and purchased a larger house located at 82 Gillotti Road, New Fairfield, Connecticut. As of October 2023, the monthly mortgage payment for the Gillotti Road property is \$2789.16 per month. The annual real estate tax on the property is \$9023.42 and the annual homeowner's insurance is \$2198. The Gillotti Road property is valued at approximately \$650,000 with equity of approximately \$299,000.

The defendant-husband financially supported the family throughout the marriage and the plaintiff-wife was responsible for the children and maintaining the house. The family enjoyed time

together during multiple vacations. The family had access to an Amazon account ordering items at an expense of \$11,000 per year. Financially the family was very comfortable.

The plaintiff-wife claims that the defendant-husband's habit of watching porn caused the decline of the marriage. The defendant-husband claims the marriage ended because he got a tattoo that the plaintiff-wife warned him not to get. He was aware if got the tattoo it would result in a divorce. Since July of 2023 when the defendant-husband moved out of the marital house, he continues to provide financially for the family. The expenses for the martial home are \$1311 per week. Beginning on October 18, 2023, in addition to covering the household expenses, the defendant was ordered to pay the plaintiff \$350 a week in pendente lite alimony. The defendant-husband pays weekly \$597 in expenses for his residence apart from the marital residence. Together the defendant-husband pays \$2258 per week between the two households and alimony. This amount excludes other expenses such as food and entertainment. The children remain in the marital house with the plaintiff-wife except for Isabella.

The defendant-husband has limited parenting skills. In 2023, Isabella spent the night with her boyfriend without the plaintiff-wife's permission. As a form of discipline, the plaintiff-wife took away her cell phone. Isabella reached her father through her sibling's phone, and he retrieved her and allowed her to live with him, sleeping on his couch. During her stay with the defendant-husband, he left Isabella home alone to go to Brazil and Isabella chose to return to the plaintiff-wife's home where she has remained. Since the defendant-husband left the marital house, he enjoyed a second trip to Brazil and a trip to Turkey. The trip to Turkey cost approximately \$2000. The trips to Brazil were partially funded by the defendant-husband's parents.

When the parties' son was in the hospital for eight days, the defendant-husband did not visit. Since December, the defendant-husband visited with the children two times, once for an

overnight and another time for two hours. The plaintiff-wife encouraged the defendant-husband to see his children, including Christmas, but he declined by not showing up. The defendant-husband's lack of contact with the children is solely his decision without regard to how this affects his children. The defendant-husband loves soccer, and he wants the children to have the same interest. If the children's interests do not match the defendant-husband's interest, he is distant from them. The court finds the plaintiff-wife's concerns with the defendant-husband's ability to meet the children's day to day needs credible. The court finds that it is not in the children's best interest for the defendant-husband to have equal shared custody of the children.

The children are in general good health. The court finds that it is in the children's best interest to have parenting time with each parent. The court finds that it is in the children's best interest for the plaintiff-wife to have primary residency of the children and final decision-making authority for their medical, mental health and educational decisions.

The Child Support Guidelines dated February 16, 2024, (#127) reflects a presumptive amount for child support of \$608 per week and recommends a presumptive amount of 40 percent attributed to plaintiff and 60 percent attributed to defendant for any unreimbursed medical expenses and childcare. The court finds the child support guidelines, dated February 16, 2024, are fair and reasonable and in the best interest of the children.

The plaintiff-wife, age thirty-eight, has a limited work history. The plaintiff-wife suffers from chronic asthma that resulted in a nine-day hospitalization. In 2023, she was employed, part time, by a dental office, as a dental assistant earning seventeen dollars per hour initially, and this increased to nineteen dollars per hour. The plaintiff-wife is a full-time mother responsible for the care of six children, five that are minors, with little assistance from the defendant-husband. During the seventeen-and one-half year marriage, the plaintiff-wife was responsible for the children's

medical appointment, educational issues, and extra-curricular activities. The plaintiff-wife took time off from her employment when she and her children were ill, and as a result, she could not retain employment and meet the family's responsibilities at the same time. The plaintiff-wife's highest earning is \$7078.50 gross in 2023. She has not been employed since the defendant-husband left the marital house, due in part to the age and needs of the children. The plaintiff-wife does not have a car in her name. The family's Sequoia automobile was in an accident and totaled. When the eldest son needed a car, the defendant-husband purchased one for \$8000. The son was not aware that it was initially unregistered, and this caused problems in the family when the son was stopped by the police. The plaintiff wife uses her son's car when possible. The lack of a car impacts her ability to maintain full-time employment.

The plaintiff-wife is not aware of all the household and business finances. As of February of 2024, the plaintiff-wife has \$5000 in debt. The court finds that the plaintiff-wife will be able to earn minimum wage full-time.

The defendant-husband, age forty-one, is in general good health. In December 2022, the defendant-husband moved approximately \$67,000 from the M&T Bank joint account to a business account. The court finds it credible that the defendant-husband used business funds, including the small business loan and the \$67,000 transferred in December of 2022, to fund family expenses.

The defendant-husband was employed throughout the marriage. In approximately 2007, the defendant-husband became self-employed in a mobile bumper business where he would provide mobile repair. A couple of years later, he took over an autobody shop for three or four years, then started a tire rim business called Rim Restoration LLC. The business relied on car dealerships clientele for most of the business. The business has two employees. The plaintiff-wife did not work in the business, but she provided occasional email assistance for the business. As of

February of 2024, the defendant-husband, who is the sole owner, valued the business at \$10,000. The business' Chase Bank Account contains \$29,000 and its Bank of America account is negative \$543. The business' assets include a 2018 Ram vehicle valued at \$18,000 and a wheel machine. As of February 20224, the business is liable for a \$100,000 business loan. As of February 16, 2024, the defendant-husband has debt in the amount of \$60,500. Both parties agree that the defendant-husband retain the business.

A few years ago, the defendant-husband earned approximately \$400,000, however the business income declined. The defendant-husband claims an annual income in 2023 of \$78,000, and a current net income of \$1523 per week. The household expenses of \$2258 per week paid by the defendant-husband exceeds his claimed salary. The defendant-husband has \$29,300 in a Chase Bank account. The family has consistently used business funds to support the family in addition to the defendant's salary. Based on the credible evidence, the court finds that the defendant has the ability to earn more than his financial affidavit states; he is able to earn \$117,500 net income per year.

There are two retirement plans that were funded during the marriage, a New York Life Simplified Employee Plan (SEP) account valued at \$41,000 and a New York Life Roth valued at \$5600, both as of February 2024. There are two cars used by the family, a Jeep Wrangler with a loan balance of \$25,000 and a Toyota Sequoia that awaits a claim payment from the insurance company valued at \$20,500. As of February 2024, the parties have \$17,500 in joint debt, and their joint bank account contains \$838.

The court finds it fair and equitable for the defendant-husband to pay alimony to the plaintiff-wife to continue the lifestyle enjoyed during the marriage, until the plaintiff-wife can rehabilitate and become self-sufficient.

ORDERS

1. The marriage of Nicole Tavares and David Tavares is hereby dissolved on the ground of irretrievable breakdown of the marriage. The plaintiff-wife and the defendant-husband are declared to be legally single.
2. The plaintiff-wife's birth name is restored to Nicole Peterson.
3. The financial affidavits are unsealed.
4. Financial Pendente Lite orders shall remain in effect until July 1, 2024.
5. **House.** The plaintiff-wife is awarded the marital property located at 82 Gillotti Road, New Fairfield, Connecticut pursuant to General Statute Section 46b-81. The plaintiff-wife shall be solely responsible for all expenses associated with said property and shall indemnify and hold defendant-husband harmless against same. The plaintiff-wife shall transfer \$149,500 lump sum award to the defendant-husband. This payment is to be secured through a promissory note and mortgage deed on the property at 82 Gillotti Road, New Fairfield, Connecticut, to be prepared by defendant-husband's attorney within forty-five days of this order. The plaintiff-wife is required to sign a promissory note and a mortgage deed securing the \$150,000 payment to defendant-husband within twenty days of receiving the promissory note. The transfer of the lump sum payment of \$149,500 will be made no later than June 10, 2027. The plaintiff-wife shall assume the mortgage, removing the defendant-husband's name from the mortgage no later than June 10, 2027. Should plaintiff-wife fail to meet the payment deadline, five percent per annum interest

shall occur and the defendant-husband may proceed with enforcement of the promissory note.

6. **Rim Restoration L.L.C.** The defendant-husband shall be the sole owner of Rim Restoration L.L.C., all associated business equipment, including the 2018 Ram 3500 vehicle, bank accounts including the Chase Bank business account, Bank of America Account ending in 4532, and debt including the Small Business loan. The defendant-husband is solely responsible for all expenses and liability associated with said property and shall indemnify and hold plaintiff-wife harmless against same.
7. **Sequoia Automobile.** The plaintiff-wife is awarded the Sequoia automobile. The defendant-husband shall surrender the title to the Sequoia automobile to the insurance carrier no later than July 11, 2023. Upon receipt of the proceeds, the defendant-husband shall pay the full amount received from the insurance company to the plaintiff-wife with proof of the amount received from the insurance company no later than seven days after receipt.
8. **Jeep Wrangler Automobile.** The defendant-husband is awarded the Jeep Wrangler automobile. The defendant-husband shall be the sole owner and solely responsible for all expenses associated with said property and shall indemnify and hold plaintiff-wife harmless against same.
9. **Stock Accounts.** All accounts shall be equally divided between the parties.
The Bfly account shall be divided equally between the parties.
10. **Liabilities.** The plaintiff-wife shall be solely responsible for the plaintiff-wife's Sapphire Visa account and Wells Fargo Visa account debt.

11. **Liabilities.** The defendant-husband shall be solely responsible for the Home Depot account, Chase Credit card, Citibank, the Defendant-husband's Chase Sapphire, Chase personal account, Raymour & Flanigan account debt.
12. **Taxes.** The defendant-husband shall be entitled to take the tax deductions for the marital home for the 2024 tax year. Any joint tax refunds shall be shared equally by the parties. Any outstanding personal joint State or Federal taxes shall be paid equally by the parties.
13. **Personal Property.** The plaintiff-wife shall retain the jet ski and boat. The defendant-husband shall retain the lawn mower. If there is a disagreement of the division of furniture or other items, they shall be divided by an arbitrator. The cost of the arbitrator shall be divided between the parties.
14. **Bank Accounts.** The plaintiff-wife and the defendant-husband shall equally divide the funds in the M&T checking account ending in 1334. Both parties shall cooperate in closing the account. The plaintiff and the defendant shall equally divide the funds as they exist on June 11, 2024, in the Chase personal bank account.
15. **Annuities.** The plaintiff-wife shall solely retain the Roth IRA in her name without claim from the defendant husband. The defendant-husband shall solely retain the Roth IRA in his name without claim from the plaintiff-wife.
16. **Simplified Employee Plan (SEP).** The parties shall equally divide the New York Life SEP ending in 7881. The court shall retain jurisdiction for the division.
17. **Life Insurance.** The defendant-husband shall name the plaintiff-wife as beneficiary of a life insurance policy on his life in the amount of \$300,000 for as long as he is obligated to pay child support, alimony, or the children are eligible for an educational support order. The

defendant-husband shall provide proof of the life insurance policy within thirty days upon request from the plaintiff-wife one time per year.

18. **Life Policies.** Each party shall retain their policies in their own name.

19. **Alimony.** Beginning the week of July 4, 2024, the defendant-husband shall pay alimony to the plaintiff-wife in the amount of \$800 per week payable on each Friday of the month, until December 5, 2024. Beginning Friday, December 12, 2024, the defendant shall pay the plaintiff alimony in the amount of \$500 per week until June 30, 2032. No alimony is awarded to the defendant-husband.

20. **Healthcare Insurance.** Each party shall be responsible for their own health insurance.

21. **Legal Fees.** Each party is responsible for their own legal fees.

22. **Documentation Exchange** While there remains an obligation to pay child support, alimony, or post-majority education expenses, the parties shall exchange the following documentation no later than April 30 of each year. Forms W-2, 1099, K-1, annual tax returns, if self-employed, profit and loss statements.

PARENTING ORDERS

1. **Legal Custody.** The plaintiff-wife and defendant-husband shall have joint legal custody of the minor children, Alexis M.T, Isabella G.T., Sophia O.T., Logan D.T. and Brayden L.T. The plaintiff-wife shall have final decision-making authority on religious, medical, and educational issues after considering defendant-husband's input. The defendant-husband shall respond to a written request for input on medical, mental health and educational decisions within seventy-two hours. A lack of written response from defendant-husband within seventy-two hours is to be considered a no opinion response, and plaintiff-wife shall solely proceed without the defendant-husband's input.

2. **Physical Custody.** The plaintiff-wife shall have primary residential custody of the minor children, Alexis M.T, Isabella G.T., Sophia O.T., Logan D.T. and Brayden L.T.
3. **Parenting Time.** Beginning June 20, 2024, the defendant-husband shall have parenting time with the minor children on alternating weekends from Friday after school or extracurricular activity, until Monday, return to school. If there is no school or extracurricular activity, pickup shall be at 4 p.m. on Friday at the home of the plaintiff-wife. If Monday is a holiday resulting in a day off from school, or there is no school or extracurricular activity, the defendant-husband shall return the children at 4 p.m. to the plaintiff-wife's home. The defendant-husband shall have parental time with the minor children on Wednesdays following a weekend when the defendant-husband does not have weekend parenting time. Wednesday parenting time shall be from after school or extracurricular activity until 8:00 p.m. If there is no school or extracurricular activity, pickup shall be at 4 p.m. on Wednesday, at the home of the plaintiff-wife. The defendant-husband shall be responsible for pickup and drop-off transportation for this parenting time.
4. **Holidays.** The following holidays, school breaks and vacation parenting time listed in this decision shall supersede the regular parenting schedule.
 - a. **Mother's Day.** The plaintiff-wife shall have parenting time with the minor child on Mother's Day every year from 8 p.m. the Saturday prior, until Monday morning, return to school.
 - b. **Father's Day.** The defendant-husband shall have parenting time with the minor children on Father's Day every year from 8 p.m. the Saturday prior, until Monday morning, return to school.

- c. **February School Break.** In odd-numbered years, the defendant-husband shall have parenting time with the children from school dismissal for the February school break until the children return to school. In even-numbered years, the plaintiff-wife shall have parenting time with the children from school dismissal for the February school break until the children return to school.
- d. **April School Break.** In odd-numbered years, the plaintiff-wife shall have parenting time with the children from school dismissal for the April school break until the children return to school. In even-numbered years, the defendant-husband shall have parenting time with the children from school dismissal for the April school break until the children return to school.
- e. **Thanksgiving.** In odd-numbered years, the defendant-husband shall have parenting time with the minor children on Wednesday prior to Thanksgiving from after school until Monday after Thanksgiving, returning to school, when the regular schedule shall recommence. In even-numbered years, the plaintiff-wife shall have parenting time with the minor children on the Wednesday prior to Thanksgiving from after school until Monday after Thanksgiving, returning to school.
- f. **Winter break.** In odd-numbered years, the plaintiff-wife shall have parenting time with the children from school dismissal for the school winter break until the children return to school. In even-numbered years, the defendant-husband shall have parenting time with the children from school dismissal for the winter school break until the children return to school.
- g. **Vacation Time.** Each parent shall be entitled to take the minor children on vacation for two weeks each calendar year during the school summer break. Vacation time

must be in one-week increments and may be consecutive or non-consecutive. Each party shall provide written notice to the other of their vacation dates no later than May 15 of each year. The plaintiff-wife shall have priority of the vacation dates in even-numbered years. The defendant-husband shall have priority of the vacation dates in odd-numbered years. Two weeks prior to the start of any vacation with the children, where travel will occur, the traveling parent shall provide the other with written notice of flights, airline, flight number, destination, contact information of the place the children will be staying. The traveling parent must allow reasonable contact between the children and the other parent during the vacation. It is not required that the parent travel to claim vacation time with the children. The traveling parent is responsible for transportation pickup and return. In the year 2024, each party shall provide written notice to the other of their vacation dates no later than July 7, 2024.

5. **Consecutive weekend exception.** If any of the parenting plan schedules results in one parent having three weekends in a row the children shall spend the third such weekend with the other parent and the alternation schedule shall reset.
6. **Travel outside of Connecticut.** The plaintiff-wife and the defendant-husband may travel out of Connecticut with their children during their parenting time. The plaintiff-wife and the defendant-husband shall notify the other in writing, twenty-four hours prior to any trip with the children outside of Connecticut, New Jersey, New York, Rhode Island, or Massachusetts that is expected to last more than two consecutive nights. The address of accommodations and contact information shall be provided in writing prior to the travel.

7. **Contact with Children.** The plaintiff-wife and the defendant-husband shall be entitled to contact the children when the children are in the care of the other parent, at reasonable times and frequencies.
8. **Transportation and Inclement Weather.** Unless otherwise stated, the receiving parent is responsible for transportation of the children. If there is no school due to inclement weather, the exchange shall occur when roads are clear, and it is safe to transport the children, as determined by the parent transporting the children. If there is a delay in the exchange, the delayed parent shall notify the other parent in writing.
9. **Social Invitations.** The plaintiff-wife and the defendant-husband shall notify each other of the children's social invitations, such as peer party invitations, within twenty-four hours of learning of the invitation or event. The parent having parenting time during the invitation or event shall decide if the child will attend and respond to the invitation.
10. **Extracurricular Activities.** Both the plaintiff-wife and the defendant-husband shall agree to any extracurricular activities in writing, prior to enrollment. Agreement must be to both the activity, and the cost attributable to each the plaintiff-wife and the defendant-husband. Once there is an agreement to an extracurricular activity, each parent will ensure that the minor children attend the activity unless the children or parent is ill or there is an emergency. Both the plaintiff-wife and the defendant-husband's contact information shall be provided to the minor children's school and any extracurricular activity providers. The plaintiff-wife and the defendant-husband are responsible for keeping themselves informed of the children's school related events and sports schedules. The plaintiff-wife and the defendant-husband shall equally divide the number of tickets to any school related events or extracurricular events. The parties do not need an agreement to extracurricular activities

during their own parenting time so long as that parent is solely responsible for the cost of the activity.

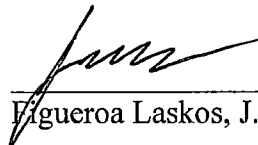
11. **Public Activities.** The plaintiff-wife and the defendant-husband shall be entitled to attend the children's public activities, including school activities, events, sporting events, extracurricular activities during or after school, religious events, including those activities not occurring during their parenting time. The plaintiff-wife and the defendant-husband shall not prevent the other party from communicating with or taking photos with the children during these events simply because it is not the other parent's parenting time.
12. **Emergencies.** Each parent shall notify the other immediately in the event of an emergency or to discuss any issue concerning the health, education, and/or welfare of the minor children. If there is an emergency concerning the children, plaintiff-wife and defendant-husband are to communicate by any means available and follow up within four hours in writing. Each parent shall be permitted to visit a child in the hospital or urgent care facility regardless of parenting time allocations.
13. **Relocation.** The plaintiff-wife and defendant-husband shall provide each other with ninety-day notice of any intended relocation from their current address. The notice shall include the new address. This order shall remain in effect as long as parenting and alimony orders remain.
14. **Modification of Parenting Time.** The plaintiff-wife and defendant-husband may modify parenting time or select an alternative pickup or drop off location with a written agreement by both parties.
15. **Communication.** Written communications may be through text, email, a parenting app or another form of writing. If the parties cannot agree on a method of communication, the

plaintiff-wife shall choose a parenting app and inform the defendant-husband of the mode of communication. The defendant-husband shall take all necessary steps to activate the communication app. If there is no agreement to the cost of the communication app, the plaintiff-wife shall choose an app that is free of cost or cover the cost herself.

16. **Child Support.** Beginning July 4, 2024, the defendant-husband shall pay plaintiff-wife \$608 per week for child support in accordance with the Child Support Guidelines. The child support payments are due on Fridays.
17. **Unreimbursed Expenses.** The plaintiff-wife shall be responsible for 40 percent and the defendant husband shall be responsible for 60 percent of any unreimbursed medical, dental, or qualified childcare expenses. This amount is consistent with the Child Support Guidelines. Any request for reimbursement shall be paid within thirty days of the request. The request for reimbursement must be in writing and include the bill or invoice showing cost and proof of payment. The written request may be in made by email, text, or other written form.
18. **Wage Withholding Order.** An immediate wage withholding order shall enter for child support and alimony payments.
19. **Healthcare Insurance.** The plaintiff-wife and defendant-husband shall provide healthcare insurance for the minor children, if such benefit is carried by such parent or available to such parent, at a reasonable cost not to exceed 7.5 percent of the parent's weekly net income. If health insurance is not available through either parent's employment, then the parents are to cooperate to maintain healthcare insurance through HUSKY or similar state plan.

20. **Child Related Tax.** The defendant-husband shall each be entitled to all tax dependency exemptions, deduction or credit claim available for the children each year through the 2027 tax year. Each party shall sign required tax forms to allow execution. For the 2028 tax year the parties shall alternate the tax dependency exemptions with the plaintiff-wife claiming in 2028. If the plaintiff-wife or the defendant-husband does not benefit from claiming a child as a dependent, that party shall notify the other so the other party may claim the child or children as dependent.
21. **Post-Secondary Education.** The court shall retain jurisdiction for the child's post-secondary education expenses for the six children, Derrick P.T., Alexis M.T, Isabella G.T., Sophia O.T., Logan D.T. and Brayden L.T. pursuant to General Statute section 46b-56c. The expenses shall be limited to the amount charged by the University of Connecticut for a full-time in state student at the time the child matriculates and the requirements of General Statute section 46b-56c.
22. **Parenting Education Classes.** The plaintiff-wife and the defendant-husband shall complete parenting education classes and file proof of completion no later than September 13, 2024.
23. All other requests are denied.

BY THE COURT



Figueroa Laskos, J.