

**DOCKET NO.: NNH-FA19-6089755-S : SUPERIOR COURT**  
**SUMMER POOLE : JUDICIAL DISTRICT OF NEW HAVEN**  
**V. : AT NEW HAVEN**  
**EDWARD FRANCOIS : JUNE 3, 2024**

**MEMORANDUM OF DECISION**

Following a contested hearing on 12/18/2023, 1/10/2024 and 2/28/2024 and the filing of Post Trial Briefs on 3/25/2024, the court has carefully considered the testimony of the parties, the Exhibits entered into evidence, the court file and all relevant cases and statutes regarding all pending motions:

**Plaintiff's Motions**

1. Motion for Contempt (#239),
2. Motion for Order (#240),
3. Objection to Defendant's Motion #250 for Contempt as amended by Motion #252 for Contempt (#258),
4. Objection to Defendant's Motion #253 for Modification (#259) and
5. Motion for Fees (#260).

**Defendant's Motions**

1. Objection to Plaintiff's Motion #240 for Order (#245),
2. Objection to Plaintiff's Motion #239 for Contempt (#246),
3. Motion for Contempt (#250) as amended by Motion for Contempt (#252),
4. Motion to Modify Order (#253) with attachments (#255) and
5. Reply to Plaintiff's Objections (#261).

and now makes the following findings before entering its Orders:

Judicial District of New Haven  
SUPERIOR COURT  
FILED

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CHIEF CLERK'S OFFICE

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**By Way of Findings**

1. The parties were married on July 4, 2013 in New York, New York. They had two children during the marriage: Ocean Francois born 10/1/2014, who is now 9 years old and Summit Francois born 12/19/2016, who is now 7 years old. They were divorced on 7/18/2022 pursuant to an Agreement dated 7/11/2022 which is the subject of this hearing.
2. The mother is the primary caretaker of the children. Although the Agreement provides that they will share joint legal custody of the children, they will reside primarily with the mother. There was a parenting schedule for the father as soon as a nanny was engaged to be with the father during his parenting time, at his cost. Although there was a delay in selecting that nanny pursuant to their Agreement, the court does not find the mother's involvement in that decision a wilful contempt of their Agreement. The court takes judicial notice of the parties' Agreement dated 4/26/2024 (pleading #295) wherein the father's access to the children shall continue to be suspended without prejudice and without adverse inference against the father.
3. Both children were attending Cold Spring School both before and after their final Agreement, but Ocean became hospitalized and had to be pulled from school. He was in a step down program associated with the hospital based on issues of depression and suicide ideation, according to the mother. Hopefully, he will be able to go back to Cold Spring School.
4. The mother has a busy schedule with full time employment, graduate school, plus taking care the children, particularly Ocean with his special needs. She was averaging 50 hours a week with her nanny, but as a compromise, agreed to his 54% share of only 40 hours per week. There was no need for documentation and the father has failed to abide with that compromised amount from the very beginning, July 18, 2022.
5. The court finds the mother's testimony credible. The court does not find the

father's testimony credible. According to the mother, she would give him notice of expenses but he often would not respond. She would at times ask for his agreement and he would either say no or not respond which, according to their Agreement, resulted in her having authority to make the final decision. He had sufficient notice of these expenses and activities as set forth in the various exhibits filed during the hearing. The court orders regarding these expenses were clear and unambiguous. In spite of that, he has refused to abide by their Agreement which is part of the Judgment dated 7/18/2022. Except for child support, he has failed to comply with their Agreement regarding division of retirement assets (3.4), destruction of embryos (3.9), application for children's passports (4.1.e), current summary of father's current symptoms, diagnosis, treatment and prognosis from his hematologist, Dr. Boyd (4.8), payment of his share of all unreimbursed medical, dental, vision, therapeutic, psychological, orthodontic or other health-related expenses for the minor children, all of the children's agreed upon extracurricular activities, said agreement not to be unreasonably withheld, summer camp, 40 hours of the mother's daycare provider at her weekly rate of \$25 per hour and private educational expenses at Cold Spring School (4.10), and Life Insurance provision (Article VII).

6. The defendant is in wilful contempt of the court orders. As a result of these proceedings the defendant did sign the applications for passport on 2/28/2024 and the court, after a further hearing on 5/13/2024, ordered that the embryos be destroyed. See pleadings #289 and #300. However, the court finds that the report by Dr. Boyd dated 12/4/2023 and filed 12/18/23 during the first day of these proceedings as Exhibit A is inadequate.

The following orders shall enter:

## Orders

### **A. Plaintiff's Motions and Defendant's Objections**

1. The defendant shall forward to Attorney McMahon immediately his share of the cost of the QDRO pursuant to paragraph 3.4 of their Agreement (pleading #228) and any necessary documents she requests in order to effectuate the transfer to the plaintiff.
2. The defendant shall immediately comply with paragraph 3.9 of their Agreement in that the embryos shall be destroyed. See Order #300.
3. The defendant shall reimburse the plaintiff the cost to store the embryos since the date of Judgment. Pursuant to Exhibit 4 the cost was \$800.00 per year. The plaintiff has made at least two payments as of this hearing with another bill due shortly after the end of testimony on 2/28/2024. That additional bill shall be sent to the defendant for reimbursement.
4. Defendant's refusal to sign the necessary paperwork to obtain passports for the minor children pursuant to paragraph 4.1.e of their Agreement was resolved on 2/28/2024 when he signed the application in open court, on the record. See Order #289.
5. The defendant is delinquent in child support by two weeks only in the amount of \$734.00 (2x367.00). The defendant shall make payment to the plaintiff in said amount within 45 days of this order. See Exhibit #8.
6. Pursuant to paragraph 4.10 of their Agreement the defendant is delinquent in the amount of \$1,385.37 for his share of unreimbursed medical, dental, vision, therapeutic, psychological, orthodontic or health-related expenses for the minor children, in the amount of \$3,581.00 for his share of the cost of extracurricular activities and summer camps, in the amount of \$12,390.88 for his share of the children's private school costs as of 10/16/2023, in the amount of \$1,209.60 for his share of the children's private school for November and December 2023 and in the amount of \$40,500.00 as his share of the mother's daycare provider through

12/15/2023. Payment to be made within 45 days of this order. See Exhibits #9, #10, #11, #12 and #13.

7. The defendant needs to comply with Paragraph VII - Life Insurance of their Agreement by providing the plaintiff with authorization to speak with his insurer and provide proof that he has directed his insurer to notify the plaintiff at her current address in the event a Notice of Cancellation is issued for any reason.
8. Defendant is not in compliance with paragraph 4.8 of their Agreement. The report by Dr. Boyd, Exhibit A, is inadequate. A more detailed report needs to be provided to the plaintiff within the next 45 days.
9. Plaintiff's Post Judgement Application for Order to Show Cause #239 and Contempt Citation is granted pursuant to above orders.
10. Defendant's Objection #246 to Plaintiff's Motion #239 for Contempt is overruled.
11. Plaintiff's Post Judgement Application #240 for Order to Show Cause and Motion for Orders is denied.
12. Defendant's Objection #245 to Plaintiff's Post Judgement Application #240 for Order to Show Cause and Motion for Orders is sustained.
13. Plaintiff's Motion #260 for Fees is granted. The court has found the defendant in wilful contempt of clear and unambiguous orders set forth in their Agreement of July 11, 2022, pleading #228. The plaintiff is awarded counsel fees in the amount of \$7,500.00, payable in full within 45 days.
14. Total amount due as of the date of this hearing for the above stated sums is \$68,900.85 -

Storage Fees	\$ 1,600.00 (\$800x2)
Child Support	\$ 734.00
Medical	\$ 1,385.37
Extracurriculars	\$ 3,581.00
Private school through 10/16/2023	\$12,390.88
Private School November & December of 2023	\$ 1,209.60

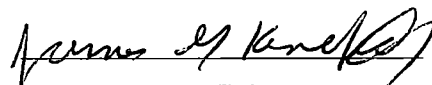
Nanny	\$40,500.00
Attorney's fees	\$ 7,500.00
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Total	\$68,900.85

Payable to plaintiff within 45 days.

**B. Defendant's Motions and Plaintiff's Objections**

1. Defendant's Motion #250 for Contempt Post Judgement as Amended by Motion #252 for Contempt is denied as there has been no wilful violation of any clear and unambiguous order of the court.
2. Defendant's Motion #253 to Modify Order is denied. There has not been a substantial change in circumstances since the Judgment of 7/18/2022 to warrant a modification of the nanny/childcare provision of the Judgement. In addition, the request to modify the transfer from the 401k and the sharing of the outstanding bill would be an impermissible modification of the property order. The issue regarding the disposition of the embryos has already been resolved pursuant to Order dated 5/7/2024 (pleading #300).
3. Plaintiff's Objection #258 to the Defendant's Post Judgment Motion for Contempt (#250) as Amended (#252.00) is sustained.
4. Plaintiff's Objection #259 to the Defendant's Post judgement Motion to Modify Order (#253) is sustained.

By the Court,



James G. Kenefick, Jr.  
Judge Trial Referee