DOCKET NO: TTD-FA-23-5016950	:	SUPERIOR COURT
SALWA SAMEER	:	J.D. TOLLAND
V.	:	AT ROCKVILLE
ANDREW W. VIARA	:	MAY 8, 2024

MEMORANDUM OF DECISION

Before the court are wife's complaint seeking dissolution of marriage (TTD-FA23-5016950) and husband's application for custody of their two minor children (TTD-FA23-5016941). The cases were consolidated and tried to the court on May 3, 2024.

As finances are in dispute, the court orders the unsealing of the financial affidavits pursuant to Practice Book Sec. 25-59A(h).

The parties were married on Aug. 3, 2018 in Bolton, CT. The plaintiff has resided in the State of Connecticut for at least 12 months before filing this action. The parties have two minor children: F.V. born August 2018 and U.V. born May 2020. The parties have received state assistance in the form of food assistance and HUSKY medical insurance. The State has not asserted an interest in this matter. The marriage has broken down irretrievably with no hope of reconciliation.

FACTS

The court finds the following facts by a preponderance of the evidence.

The parties met in 2017. The plaintiff soon became pregnant. The parties purchased the marital home in May 2018 in a foreclosure sale. The home and the mortgage are in plaintiff's name only due to the defendant's lack of credit history and/or poor credit. The home was in serious disrepair. The defendant is a house painter and independent contractor. The parties lived with the defendant's parents while working on the home to make it livable. They moved in in Dec. 2018. At that time, F.V. was four months old.

The parties' relationship has been tumultuous throughout. In August 2019, when F.V. was one year old, a conflict between the parties resulted in the defendant's arrest and a criminal protective order. The plaintiff filed for divorce in Nov. 2019 but withdrew the action in Jan. 2020. The plaintiff was pregnant with U.V. at the time. The

Memorandum Sent on 05/08/2024 to:
Salwa J. Sameer - Mail
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Doreen Snyder, AC

defendant returned to the marital home in June 2020, just after her birth. By the fall of 2020, the conflict resumed. The plaintiff obtained a civil restraining order on Dec. 28, 2020 which remained in effect until Jan. 20, 2022. It was a full no contact restraining order. The plaintiff again filed for divorce in Jan 2021. That action was withdrawn in Sept. 2022 on the eve of trial. The parties decided to try marriage counseling, and the defendant moved back into the marital home.

The defendant was home for six months when the plaintiff filed another application for a restraining order in March 2023. That restraining order is still in effect, set to expire July 1, 2024. It is a partial residential stay away. Thus, since the parties moved into the marital home in Dec. 2018, the defendant has lived there for less than two years.

During the Covid pandemic in 2020 and 2021, the plaintiff was largely unemployed. The defendant was collecting Covid enhanced unemployment compensation of approximately $1,100 a week. The plaintiff liquidated her IRA of $7,800, to help pay the mortgage and bills during this time. The mortgage is $1,375 a month including taxes and insurance. The court finds that the family was largely supported by the defendant during that time. The defendant also contributed $625 a week for approximately six months when he returned to the marital home in Sept. 2022. However, this is the only evidence of direct financial support from the defendant since 2021 until the order of support in this case entered on March 22, 2024 ordering the defendant to pay child support in the amount of $225 a week.

Both parties have been unemployed off and on, sometimes for extended periods of time. However, the plaintiff filed a financial affidavit on July 26, 2023 in the custody matter stating that she was earning $22 an hour working 40 hours a week for Eversource. This equals $880 a week gross. Plaintiff testified credibly that this job was through a temp agency and that most of her work over the last several years has been temporary. The defendant filed a financial affidavit around the same time indicating that he was working for Stonehill Restoration making $800 a week gross. He testified at trial that this was one of his "above the table" jobs, and he was paid by check.

At the time of trial, the plaintiff was unemployed and earning $401 a week gross in unemployment benefits. She testified that she is studying to obtain a license to sell health and life insurance. She anticipates completing the program and obtaining her license in the next two to three months. She researched the market and believes she will quickly find a job making $40,000 a year or more. The defendant filed a

financial affidavit indicating he makes $16 an hour ($650 a week gross) through self-employment.

The plaintiff has almost $19,000 in debt. She testified credibly that the debt accumulated over the last few years due to ongoing expenses. She also testified credibly that because the defendant does not have credit cards, the parties used her credit card to buy her $5,000 wedding ring. The defendant never paid her back. In addition, she has paid approximately $20,000 towards attorneys' fees in this and the prior court cases. The defendant lists no debt. Neither party has retirement assets.

The only real marital asset is the marital home. It is a three-bedroom home in Bolton. CT built in 1939. It has a barn and land that had previously been fenced for horses. The parties purchased it for $105,800 in a foreclosure sale in 2018. The current mortgage balance is approximately $97,000. The plaintiff listed the value as $140,000 based on the town's valuation. The defendant testified based on his own knowledge of the house and the market and after consulting a real estate agent, that he believes the market value is $165,000. The difference is equity of $43,000 versus $68,000.

The closing costs on the marital home were approximately $9,000. The plaintiff contributed $5,000 and $4,000 came through the defendant's parents. The defendant acknowledges working under the table in cash. He listed no bank accounts on his financial affidavit and has no credit cards in his name. He also acknowledged not filing a tax return for the last two years. He testified that the money that his parents provided for the closing costs and for various repairs to the marital home, came from him. He stated that he had to use his parents credit cards and have them write checks, but he paid them.

The defendant purchased a washer, dryer, stove and hot water heater for the house. He fixed the furnace and repaired the fuse box. He installed support beams in the basement, poured a partial concrete floor in the basement, removed subfloor and installed flooring in a bedroom, installed sheet rock and painted most of the exterior. The home still needs significant repairs today. There is asbestos in one of the upstairs rooms that has not yet been remediated. The basement floods in rainstorms. The chimney needs to be removed as it is beyond repair and water leaks into the home. The defendant painted much of the exterior but there is a portion still unpainted. The plaintiff obtained estimates for the major repairs totaling over $22,000.

The plaintiff testified to a history of domestic violence and coercive control. She alleged that the defendant put his hands on her, threatened to take the children away

if she did not obey him, denied her access to the car and sometimes took her phone. The plaintiff testified that she has been diagnosed with PTSD and is engaged in therapy. The defendant claims that the conflict was often mutual.

There has been both DCF and police involvement at the home. A 911 call was placed from the home in Aug. 2019. Both parties accused each other of becoming physically aggressive. Police deemed the defendant the aggressor and this resulted in the first protective order. About a week later, the defendant was charged with violating the protective order. DCF was also involved but closed the case with no substantiation.

In May 2020 when U.V. was born, a report was made to DCF because of a lack of prenatal care. The plaintiff reported to DCF that they had gone on vacation and then the pandemic hit. DCF closed the case after finding that the children appeared to be well cared for. In Jan. 2021, a marriage and family therapist called a report in to DCF due to the plaintiff's report of domestic violence. This case was also closed with no substantiation.

The Children's Law Center was appointed Guardian Ad Litem for the minor children on July 25, 2023. The Law Center had previous involvement with the family through appointments made in the earlier divorce cases. The GAL conducted two home visits in each home and observed the children with each parent. Despite the long history of conflict between the parties and the defendant's absence from the home for long periods of time, the GAL reports that the children appear comfortable and engaged in both parties' homes. They demonstrate a close and loving bond with both parents and appear happy and stable.

F.V. is in kindergarten and is reportedly doing well in school after some initial behavioral problems. Both his teacher and the school principal made very positive comments about F.V. and the parties. They described both parents as engaged and responsive. They noted that F.V. does well with transitions to and from both parents with no difference in his presentation based on who he is with. They reported no concerns with either parent.

The plaintiff testified that the children have suffered from chronic rashes that she attributes to the defendant not providing proper hygiene while the children are in his care. The GAL discussed the issue with both parties. She testified that the plaintiff has a heightened response to hygiene issues and found no evidence of a serious hygiene issue.

The plaintiff testified that the defendant is opposed to vaccinations, and medical and mental health care. She asks for final decision-making authority so that she can ensure the children receive timely and appropriate medical care. The GAL confirmed that the defendant expressed an aversion to vaccines and medical and mental health treatment. However, the defendant testified that he does not oppose vaccines generally. He did not support giving the children the Covid vaccine at their young age. He points out that he has done nothing to prohibit or interfere with the children's medical care. He complains that the plaintiff does not keep him apprised of the children's care or consult him before making appointments. Indeed, the plaintiff engaged the children in therapy without consulting the defendant. He found out that the children were attending therapy through the court process. When he did find out, he promptly reached out to contact the provider. He testified that he would like to be included and involved in their therapy. He is concerned that the plaintiff will abuse final decision-making authority by effectively excluding him from all decisions regarding the children.

There is no question that the parties' communication is poor to non-existent, and there is a lack of trust between them. Plaintiff provided evidence of attempts to communicate by email with the defendant with no response. There is also no question that the plaintiff has been the children's primary caregiver for most of their lives. That said, the defendant has shown an ability to be engaged, such as with the children's school and reaching out to their therapist immediately upon learning of the therapy. The court found him credible that he wants to be actively involved in the children's lives and have a voice in decision making. Most importantly, the children feel safe and comfortable in his care and demonstrate a loving bond with him. The defendant lives just 15 minutes from the children's school.

Since June 15, 2023, the defendant has had parenting time every Thursday to Saturday, or 8 overnights in a four week period. (Entry No. 107) The GAL is recommending, and the defendant is requesting, a shared parenting plan where each parent would have fourteen overnights every four weeks. The plaintiff is requesting primary residence with her and alternating weekends Friday to Monday and every Wednesday overnight with the defendant, or ten overnights every four weeks. The GAL testified that both plans are appropriate and in the children's best interests.

DISCUSSION

Custody and Parenting

Section 46b-56a provides that, where both parents request and agree to joint custody, there shall be a presumption that joint custody is in the best interests of the child. However, even absent agreement, the court may award joint custody if one party requests joint custody and the court finds under the facts and circumstances of the case that joint custody is in the best interests of the child. Coleman v. Bembridge, 207 Conn. App. 28, 41-44 (2021).

"Joint custody .... requires mutual communication and cooperation-the willingness and ability on the part of each parent to voice its concerns and opinions, rationally consider and fairly weigh the views of the other parent, and, if the parties still cannot agree after such a dialogue, engage in a reasoned and mutually cooperative decision-making process." *LaFontaine v. LaFontaine,* Superior Court, Judicial District of New Haven, Docket No. FA 03-0477510S, April 22, 2005; see *Jones v. Jones,* Superior Court, Regional Family Trial Docket Judicial District of Litchfield, Docket No. FA99-0078925 (March 13, 2000) (Munro, J.), (Joint custody "requires the court to first find that the parties are capable of reasoned communication ... regarding important custodial decisions.") The granting of final decision-making authority in one parent is not the same as sole custody and is consistent with joint legal custody. See Lopes v. Ferrari, 188 Conn. App. 387, 396-97 (2019).

"Visitation rights are not wholly unrelated to the welfare of the children of divorced parents. Minor children are entitled to the love and companionship of both parents. For the good of the child, unless a parent is completely unfit, a decree should allow a parent deprived of custody to visit or communicate with the children under such restrictions as the circumstances warrant." Raymond v. Raymond, 165 Conn. 735, 741 (1974). A visitation dispute "is not one primarily to determine the rights of the respective parties but rather a determination of the best interests of the child or children." Id.

General Statutes § 46b-56 (c) provides in relevant part: "[T]he court shall consider the best interests of the child, and in doing so may consider . . . one or more of the following factors: (1) The temperament and developmental needs of the child; (2) the capacity and the disposition of the parents to understand and meet the needs of the child; (3) any relevant and material information obtained from the child, including the informed preferences of the child; (4) the wishes of the child's parents as to custody; (5) 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; (6) 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; (7) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute; (8) the ability of each parent to be actively involved in the life of the child; (9) the child's adjustment to his or her home, school and community environments; (10) 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; (11) the stability of the child's existing or proposed residences, or both; (12) 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; (13) the child's cultural background; (14) the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child; (15) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and (16) 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."

Ultimately, "the court shall enter orders . . . 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." General Statutes § 46b-56 (b)

In the present case, the plaintiff requests and the GAL recommends joint legal custody with final decision-making authority to the plaintiff. The defendant asks the court for full joint legal custody. This is admittedly a difficult case. The court cannot ignore the history of domestic violence which is a relevant statutory factor. Although the court finds that it is more likely than not that the plaintiff at times contributed to the conflict, it also finds that the defendant was primarily responsible. The plaintiff has been diagnosed with PTSD. Asking a victim of domestic violence to engage in extended communication and often difficult decision making with the other party is bound to create anxiety and is not to be taken lightly.

On the other hand, custody and parenting are not primarily about the parents, but the children. The children have an independent right to the support and involvement of both parents. The children in this case are five and four years old. They will be minors and rely on their parents for guidance and decision making for many more years. To automatically default to a rule that, where there is any history of domestic violence, the responsible party loses the right to joint custody and decision making would be both inconsistent with the statute and not in the best interests of the children. There are many other statutory factors and factual circumstances to consider.

Other concerns in this case include the defendant's willingness, or lack thereof, to engage in mutual decision making, as evidenced by his failure to respond to the plaintiff's emails (and the court does not find credible his claim to have not received them), and his aversion to recommended medical and mental health care. These concerns relate to the defendant's ability to understand and meet the children's developmental needs as well as his willingness engage in mutual decision making in good faith. Just as the defendant is concerned about the plaintiff abusing final decision making authority by ignoring his unput, and there is some legitimacy to this concern in light of her engaging the children in mental health treatment without consulting or even informing him, the plaintiff is equally concerned that the defendant would use joint legal custody to effectively veto decisions she believes are in the children's best interest, including medical and mental health care.

Joint legal custody creates both rights and responsibilities. The right to be an equal partner in decision making for children brings with it a responsibility to remain engaged, act in good faith and be willing to compromise. When directly asked if he could do that, the defendant responded yes. He affirmed, for example, that he does not intend to interfere with the children's mental health treatment, even though he was not consulted in advance. The court found him credible. If in the future the defendant were to abuse his right to participate in joint decision making by effectively vetoing, obstructing or delaying important decisions, such behavior might be grounds for a post judgment motion to modify custody.

Under the totality of the circumstances, including the children's age, the strong bond they have with the defendant, the evidence that the defendant has been positively engaged in their schooling and education, his testimony that he strongly desires to be a fully engaged parent, and his testimony that he understand the responsibility that comes with joint custody, the court finds that it is in the best interests of the children that the parties share joint legal custody. The conflict between the parties occurred

when they were residing together in the marital home. The difficulty communicating has occurred against the back drop of protective orders, pending litigation and no standardized communication framework. The court hopes that, with these factors resolved, the parties can learn to communicate productively focusing on the children's best interests.

As for the parenting plan, the court agrees with the GAL that both parties' proposed parenting plans could be considered to be in the best interests of the children. At least since June 15, 2023, the children have been staying with the defendant in his home two nights a week. They appear comfortable and happy in his home. He lives within 15 minutes of their school. He has been engaged with F.V.'s teachers and school personnel.

At the same time, the plaintiff has been the children's primary caretaker throughout the periods of conflict and separation. She has been primarily responsible for arranging for their medical care. She has provided a stable home throughout years of turmoil. The children are still quite young. Taking into consideration all of the relevant factors the court finds that it is in the best interests of the children to start with the plaintiff's proposed parenting plan and then transition to the 2-2-3 plan proposed by the GAL and the defendant over the summer. This will give the children a chance to adapt to additional overnights with the defendant during the school year before transitioning to a full 50/50 schedule in the summer.

Child Support

Parents are legally obligated to support their children "according to their respective abilities." General Statutes § 46b-84 (a). In determining the parents' ability to provide support, the court is required to consider a variety of factors, including the parents' age, health, and amount and sources of income. § 46b-84 (d).

To determine child support, the court must first look at the Child Support Guidelines and the presumptive child support amount based on the parties' actual current net income. State law requires the use of the Child Support Guidelines to determine child support payments. There is a rebuttable presumption that the amount determined by the guidelines is appropriate and should be used by the court in issuing child support orders. In order to overcome this presumption, the court must make a specific finding that the guideline amount would be inequitable or inappropriate based on the facts of the case and specific deviation criteria. See General Statutes § 46b-215b (a); *McHugh* v. *McHugh,* 27 Conn. App. 724, 728, 609 A.2d 250 (1992).

Child support guidelines based on the parties' income as reported on their financial affidavits at the time of trial yield a presumptive child support amount from defendant to plaintiff of $175 a week. The plaintiff submitted child support guidelines attributing income to the defendant of $800 based on his past earnings and using her current unemployment income. However, the plaintiff has also earned over $800 a week in the past. Under the law, the court must start with current actual income as reported on the financial affidavits.

The court may deviate based on earning capacity. However, "[e]arning capacity . . . is not an amount which a person can theoretically earn . . . it is an amount which a person can realistically be expected to earn considering such things as his vocational skills, employability, age and health." (Internal quotation marks omitted.) *Weinstein* v. *Weinstein*, 280 Conn. 764, 772, 911 A.2d 1077 (2007). In order to base a support award on earning capacity, the court must determine a specific dollar amount based on the evidence presented. *Fox* v. *Fox*, supra, 152 Conn. App. 634. While the court finds it more likely than not that the defendant can earn more than the $650 a week reported on his current financial affidavit, it also finds that he has historically been unemployed off and on. He is an independent contractor reliant on general contractors and third parties for jobs. In addition, the court also finds that the plaintiff can and has made more than her current unemployment income. Therefore, under the totality of the circumstances, the court finds it fair and equitable to use the current financial affidavits of the parties for the purposes of computing child support.

The parenting plan ordered by the court provides substantially more parenting time to the defendant than the traditional parenting plan upon which the child support guidelines are based and will soon be a fully shared plan. However, a deviation based on shared parenting is not automatic. The burden is on the party seeking a deviation to demonstrate that the shared parenting plan will substantially reduce expenses for the lower income parent and increase expenses for the higher income parent and that either sufficient funds will remain after the deviation for the parent receiving support to meet the needs of the child or that both parents have substantially similar income. Child Support Guidelines and Arrearage Regulations Sec. 46b-215a-5c(b)(6)(A).

In the present case, the defendant did not submit evidence of how the shared parenting plan would substantially reduce plaintiff's expenses and substantially increase his expenses. More importantly, in light of the plaintiff's current income of $401 a week, the court finds that a downward deviation would not leave sufficient funds for her to care for the two minor children. In addition, the parties' income is

not substantially equal. Neither makes a lot of money, but the defendant's reported weekly income is 47% higher than the plaintiff's. Therefore, the court is not persuaded that a deviation from the presumptive amount is appropriate in this case.

Alimony

Neither party is requesting alimony. Under the facts and circumstances as found by the court, and considering the relevant statutory criteria, the court finds that alimony is not appropriate in this case. Conn. Gen. Stat. 46b-82

Property Distribution

In a marital dissolution matter, the court has the authority to divide and distribute all of the property owned by either party, regardless of who holds title to the property or whether it was acquired prior to or during the marriage. Connecticut's "approach to property division is commonly referred to as an 'all-property' equitable distribution scheme. . . . It does not limit, either by timing or method of acquisition or by source of funds, the property subject to a trial court's broad allocative power." Krafick v. Krafick, 234 Conn. 783, 792 (1995). "The assignment of property in a marital dissolution rests in the sound discretion of the court." Ridgeway v. Ridgeway, 180 Conn. 533, 544 (1980).

General Statutes § 46b-81 recognizes "all forms of presently existing interests as property subject to distribution." Lopiano v. Lopiano, 247 Conn. 356, 371 (1998). Legal title to the property does not by itself determine whether it is part of the marital estate. Watson v. Watson, 221 Conn. 698, 711-12 (1992). In distributing property, there is no presumption that it should be divided into equal shares. Wendt v. Wendt, 59 Conn. App. 656, 683 (2000).

There are a variety of statutory factors the court is to consider in dividing marital property between the parties. These include but are not limited to the length of the marriage, the cause of the breakdown, the age, health, education, occupation and earning capacity of the parties and each party's contribution to the acquisition, preservation and appreciation of the marital estate. Conn. Gen. Stat. §46b-81(c). The court is not required to afford the same weight to each factor. Calo-Turner v. Turner, 83 Conn. App. 53, 62 (2004). Nor must the court make express findings as to each factor. Caffe v. Caffe, 240 Conn. 79 (1997). It is sufficient that the court's factual findings indicate that the above factors were considered and that the evidence supports the equity of the division.

As for valuing marital property, the court has broad discretion to consider the financial affidavits, any appraisals conducted, the testimony of experts and the parties themselves, and its own knowledge. "[A] trial court has broad discretion in determining the value of property. In assessing the value of ... property ... the trier arrives at [its] own conclusions by weighing the opinions of the appraisers, the claims of the parties, and his own general knowledge of the elements going to establish value and then employs the most appropriate method of determining valuation...." (Internal quotation marks omitted.) *Ricciuti v. Ricciuti,* 74 Conn.App. 120, 126–27, 810 A.2d 818 (2002), cert. denied, 262 Conn. 946, 815 A.2d 676 (2003). See also Desai v. Desai, 119 Conn. App. 224, 232–33, 987 A.2d 362, 367–68 (2010).

The only marital property of any value is the marital home. The only evidence as to its value is the value listed on each party's financial affidavit. The plaintiff listed $145,000 which she testified was based on the town's valuation. The defendant listed the value at $165,000 based on his knowledge of the home, the market and a consultation with a realtor. It is a three-bedroom home with barn and some acreage in Bolton, CT. While it is still in need of significant repairs, the court finds the defendant's value to be more credible. This results in current equity of approximately $68,000.

The plaintiff argued that the defendant contributed little to nothing to the acquisition, maintenance and improvement of the marital home and asks that the court award her the home free and clear of any claim from the defendant. While not always finding the defendant credible regarding his income, the court does find that it is more likely than not that the money contributed by the defendant's parents to the closing costs and certain purchases for the home effectively came from the defendant. The court finds that the defendant is often paid in cash and avoids the use of checks and credit cards. He testified that his parents wrote checks, and he used their credit cards for purchases, but he reimbursed them. The court finds this credible. In addition, the court finds that he did perform repairs and make improvements to the home when he was living there.

On the other hand, the plaintiff also contributed to the closing costs and has lived in the marital home without the defendant for several years over the course of the marriage due to the restraining orders. During those periods of time, she effectively

supported the home and the household. The court finds that the plaintiff has contributed more to the marital home over the course of the marriage.

The court also finds that the defendant is more at fault for the breakdown in the marriage. While the court finds that the conflict between the parties was sometimes mutual, it also finds that the defendant more often than not caused or escalated the domestic violence.

In terms of the other factors, the parties are both generally healthy and capable of working full time. Neither has a high level of education. The defendant has a longer history of being gainfully employed in his chosen field. The plaintiff has primarily worked for temp agencies but is studying to obtain a license to sell life and health insurance.

The defendant testified that he wants the plaintiff to be able to stay in the home with the children. While he asks for half of the equity in the home, he is willing to wait until the home is sold sometime in the future. He testified he would wait "20 years" if the plaintiff and the children reside there that long. The court finds that an award of some of the equity in the home to the defendant is fair and equitable, although not half.

ORDERS

Having heard the parties, weighed the testimony and evidence presented, and applied the relevant statutory criteria and legal precedent, the court finds the following orders to be fair, equitable and in the best interests of the children:

Custody

The parties shall share joint legal custody of the two minor children. The parties shall communicate and cooperate in good faith to make mutual decisions regarding the children. This includes but is not limited to education, medical and dental care, mental health care, religious upbringing, day care, camps, and extracurricular activities.

The parties shall communicate regarding routine day to day decisions such as bed time, homework, routine hygiene, technology use in the home, and discipline in an

attempt to maintain consistency between the households. However, such routine decisions rest with the parent exercising physical custody at the time.

Each parent is entitled to obtain information from the children's providers, including schools, day care, and medical and mental health providers. Each parent shall keep the other informed of any changes or additions to the children's providers by promptly notifying the other through the parenting app. Otherwise, each parent is responsible for obtaining information from and communicating directly with the provider. Each parent shall list the other as parent/emergency contact when signing the children up for any activity, making a medical appoint or registering with any provider.

Both parents shall, in utmost good faith, encourage and foster the maximum love, affection and respect between the children and the other parent. Neither parent shall make disparaging or negative remarks about the other in front of or within earshot of the children nor allow others to do so. Neither shall involve the children in adult topics or conflicts, including any court proceedings.

Parenting Plan

Primary residence shall be with the plaintiff for school purposes only.

Effective immediately:

The defendant shall have parenting time with the minor children every other weekend from Friday after school/daycare until Monday morning drop off at school/daycare and every Wednesday afternoon from after school/daycare until Thursday morning drop off as school/daycare.

Effective July 1, 2024, the parties shall follow a 2-2-3 parenting schedule as follows:

The parent who did not have access the prior weekend shall have access from Monday after school/daycare until Wednesday morning drop off at school/daycare. The other parent shall then have access from Wednesday after school/daycare until Friday morning drop off at school/daycare. The parties shall alternate weekends from Friday after school/daycare until Monday morning drop off at school/daycare.

If there is no school/daycare on the day of an exchange, morning exchanges shall be at 8:00 am and afternoon exchanges at 3 pm. When transitions are not at school/daycare, the parties shall transition the children in the Manchester Police Dept. parking lot. Neither party shall engage in any communication during exchanges.

The parties may modify the parenting plan, including the days and the time and location of exchanges by mutual agreement in writing through the parenting app. The parties shall cooperate in accommodating reasonable requests to modify the schedule taking into consideration family commitments, special events, illness or other reasonable cause.

Communication

The parties shall use AppClose for all non-emergency communication relating to the children including schedule changes and medical, educational, mental health, emotional, disciplinary, extracurricular and other matters. Each party shall notify the other of any non-emergency illness, accident or other incident involving the children through the parenting platform, generally within 24 hours. Communication shall be concise, clear and child focused. The parties shall check the parenting platform daily and respond to any reasonable inquiry, comment, question or concern in a timely manner. Specifically, responses should be provided within 24 hours unless the entry indicates that a longer response time is acceptable.

The parties may communicate by telephone or text only in the event of an emergency that requires a response in less than 24 hours. Either parent may obtain emergency medical care for the children and shall inform the other parent as soon as possible should emergency care be necessary. Any medical decision in such an emergency shall involve the other parent if possible.

The parties shall utilize the Calendar to record all medical, educational, social, extracurricular and other obligations or appointments for the children. Such information shall be entered within 24 hours of scheduling an appointment or becoming aware of such obligation. The parties shall use the Trade/Swap feature to request one-time changes to the parenting schedule. It is each parent's obligation to enter information in a timely manner and consult the calendar on a regular basis.

Holidays and Vacations

The holiday schedule supersedes the routine parenting access schedule.

Father's Day: shall be with Defendant/father from Sunday at 9:00 a.m. until Monday morning, at drop off at school/daycare (8:00 a.m. if there is no school).

Mother's Day: shall be with Plaintiff/mother from Sunday at 9:00 a.m. until Monday morning, at drop off at school/daycare.

Easter: the parties shall alternate parenting time with the children on Easter with Plaintiff/mother having the children in odd numbered years and the Defendant/father having the children in even numbered years. The Easter holiday shall start on 9:00 a.m. in the morning and lasting to Monday at school/daycare drop off (or 8:00 a.m. if there is no school).

Fourth of July: the parties shall alternate parenting time with the children on July 4th with Plaintiff/mother having the children in odd numbered years and the Defendant/father having the children in even numbered years. The July 4th holiday shall begin on 9:00 a.m. in the morning on July 4th and lasting to the following day at 8:00 a.m.

Thanksgiving: The Plaintiff/mother shall have the children for Thanksgiving in even numbered years and the Defendant/father shall have the children in odd numbered years. Thanksgiving shall be defined as lasting from Thursday 9:00 a.m. until Friday at 3:00 p.m.

Christmas Eve/Christmas Day: The Defendant/father shall have the children on Christmas Eve in odd numbered years and the Plaintiff/mother shall have the children on Christmas Eve in even numbered years. Christmas Eve shall be defined as lasting from December 23rd after school (if there is no school on December 24th) or from after school on December 24th (if there is school on December 24th) until December 24th at 8:00 p.m. The Defendant/father shall have the children on Christmas Day in even number years and the Plaintiff/mother shall have the children in odd number years. Christmas Day shall be defined as lasting from December 24th at 8:00 p.m. until December 26th at 9:00 a.m.

New Year's Holiday: the Plaintiff/mother shall have the children for New Year's in all odd numbered years. The Defendant/father shall have the children for New Year's in all even numbered years. The New Year's Holiday shall be defined from December 31st at 6:00 p.m. until January 1st at 6:00 p.m. The determination of the odd and even numbered years shall be determined by the year New Year's Day actually falls on.

Vacations: The parties may elect to take the children away on vacation for a period up to one week (7 consecutive days) each year. However, said vacation week shall be combined with the weekend of the parent's regularly scheduled weekend access. Neither party shall have the children for two (2) successive weekends as result of a parent electing their one week vacation time with the children hereunder. Vacation time shall supersede the regular access parenting time but shall not supersede the