

MAR 16 2018

I hereby certify that the foregoing is a true and correct copy of the original filed.

Matthew R. Krupp
Prothonotary

BRADFORD SAWYER,
Plaintiff

v.

ALYSE SAWYER,
Defendant

**:IN THE COURT OF COMMON PLEAS
:DAUPHIN COUNTY PENNSYLVANIA**

:NO. 2017 CV 04108-CU

:CIVIL ACTION – CUSTODY

MEMORANDUM OPINION

2018 MAR 16 AM 9:42
DAUPHIN COUNTY
PENNSYLVANIA
PROTHONOTARY

PROCEDURAL HISTORY

The instant matter was initiated on May 31, 2017 by the filing of a Complaint for Custody by Plaintiff, Bradford Sawyer (hereinafter "Father") naming Defendant, Alyse Sawyer (hereinafter "Mother") and seeking shared legal and physical custody of Connor Sawyer (hereinafter "the Child"), who was born in April of 2014. Father had difficulty serving Mother as she relocated and did not provide her new address. She was ultimately served in July of 2017 at a custody exchange. Following a September 27, 2017 Custody Conference with Jennifer Lehman, Esquire, wherein no agreement was reached, an expedited Pre-trial was scheduled for October 16, 2017. An Order was entered on October 17, 2017, awarding the parties shared legal custody regarding the educational needs of the child, primary physical custody to Mother, and Father two (2) days of custody, supervised by Paternal Grandmother.

A hearing was scheduled for November 2, 2017, after which a second Order was entered granting the parties shared legal custody, Mother primary physical custody and Father periods of weekend custody through December 30, 2017, all to be supervised by Paternal Grandmother. The November 2, 2017 Order further stated that a hearing would be set for January 2018 and that Father should submit to a hair follicle test within ten (10) days of the hearing. No hearing was scheduled by the Court and Father filed a Motion for Assignment on January 29, 2017 ¹ and a hearing was scheduled for March 9, 2018.

CUSTODY HEARING

Father appeared at the hearing and was represented by P. Richard Wagner, Esquire. Mother appeared and was self-represented. This Court provided both parties with the Relocation Factors as enumerated in 23 Pa. C.S.A. § 5337, as Mother had moved the Child to Tyrone without court order or Father's consent.² This Court heard testimony from Mother and Father, as well as, brief testimony from Maternal Grandmother and Paternal Grandmother.

Mother testified in the narrative and told the Court that she had relocated to Tyrone, Pennsylvania in May of 2017 and that she resides there with her boyfriend that she had been dating since August of 2016. Mother testified that this move was her fourth move in about one year and that she left a job where she was earning \$56,000 a year to take a job where she would earn \$36,000 per year. She testified that she and her boyfriend had purchased a home in April of 2017, but provided no evidence to show that she was on

¹ This matter was assigned to this Court on January 30, 2018.

² Mother failed to file a Notice of Proposed Relocation as required by 23 Pa. C.S.A. § 5337.

the deed for the home. Furthermore, Mother provided no details about the home or the neighborhood in which the home was located.

Mother testified that she had no extended family in Tyrone and that her Mother lives in Phoenixville, outside of Philadelphia. She added that she did have a grandfather in the Pittsburgh area but provided no testimony as to how often she and the Child visited anyone in her family.

Mother did provide extensive testimony about a K-3 program she had unilaterally selected for the Child, after she, on her own, diagnosed the Child with a speech problem. Mother testified at length about how this K-3 program in Tyrone was the only one of three in the state, but provided no evidence to support her assertion. Mother did report that the Child was doing well in the K-3 program and presented a report to support this fact. Mother further testified that the Child had no pediatrician in Harrisburg and she provided no details about any medical professionals the Child sees in Tyrone.

Mother testified as to her concerns over Father's past drug use but could provide nothing to support her allegations that he had used since April of 2017. When questioned about her stay in a rehabilitation facility in North Carolina, along with Father, she told this Court that she was only there for mental issues.

While Mother testified that she had been the Child's primary caregiver since birth, she readily admitted that she had only allowed Father to see the Child for six (6) nights from May until October in 2017, and not at all since December 30, 2017 through the date of the hearing. Mother repeatedly referred to the Child as "my child" throughout her testimony, but provided no details as to what kinds of things she does with the Child when she is with him.

Mother provided little information as to how living in Tyrone enhanced either her life or the life of the Child, except to say that her monthly expenses are lower since moving in with the boyfriend and that the school she selected was good for the Child. Furthermore, Mother provided no testimony as to how she would preserve the Child's relationship with Father, even though she testified that the Child believes Father is superman. Mother also did not provide this Court with what custody arrangement she believed would be in the best interest of the Child.

Mother provided very little information as to how the custody or relocation factors apply to her as she was more interested in providing details as to why Father should not have unsupervised time with the Child.

Father testified that he currently resides alone in a two-bedroom apartment, is taking three classes at Harrisburg Area Community College and works at the Texas Roadhouse on weekends and intermittently throughout the week as his schedule allows. He provided specific details as to dates and times he currently has classes. Father added that he had adjusted both his school and work schedule in the past when he had custodial time with the Child and that he was able to do so going forward.

Father testified at length about Mother keeping her move to Tyrone, Pennsylvania from him, stating that even after she had moved, she arranged for custody exchanges at her previous residence in Harrisburg. Father testified, that while Mother had told him she was thinking of moving to western Pennsylvania, that Mother denied she had decided about the move, when he suggested he would move to State College and attend school there, to be closer to their child. Father testified that prior to Mother moving in with her boyfriend, he had enjoyed two to four days and overnights each week with the Child, none

of which were supervised. Father also stated that he filed his custody complaint in May of 2017 as Mother had kept the Child from him and that Mother only allowed him to see the child for six days between May and October of 2017 and that she, of her own doing, stopped all visits with Father after December 30, 2017 through the date of the hearing on March 9, 2018.

As to drug usage, Father testified that both he and Mother used opiates regularly and that both went to rehabilitations facilities in North Carolina in 2015. As to his use of heroin, Father testified that he only began using heroin because the parties were running out of money and he opted for the cheaper heroin so that Mother could continue with the opiates. Father presented the results of his March 2, 2018 hair follicle test which indicated negative results for drugs, and a urine testing from October 18, 2017 which indicated negative results as well. Additionally, Father provided three (3) letters regarding his participation in continuing drug rehabilitation at Discovery House, Center for Recovery and Hope.³

Father told the Court that he would like to have the Child during the week as he is more readily available, and that Mother could have the Child on weekends when she does not work. Father added that the Child is currently transferred from home to daycare, then to the K-3 program and back to daycare each school day while with Mother. Father stated that he had located a K-3 program with an in-house daycare near his home. Father testified that he would be able to adjust both his work and school schedule to be able to provide for the Child during the week.

³ The dates on these letters were September 26, 2017, October 5, 2017 and March 6, 2018.

Father provided no testimony as to how much time his family spends with the Child but he did provide photographs of his home which was well-furnished, including child appropriate furnishings in the Child's own bedroom. Father did not provide any testimony as to his care of the child during the marriage. Father did provide details as to what kinds of things he does with the Child when he does have time with him.

Maternal Grandmother testified as to a spring of 2016 dinner she arranged for the parties and their parents at which she presented the parties with an unannounced urine test. She stated that both tested negative. After this she allowed the parties to move in with her in the Harrisburg area, but that she subsequently evicted Father because she found white powder on a dollar bill in her bathroom and she suspected it was his. She said that, even though the Paternal Grandmother had previously told her that both parties were using, she did not believe Mother was doing so.

Maternal Grandmother testified to very specific details about Father's alleged drug use and inability to care for the Child, but she could not remember exactly when she had the dinner with the parties nor when her daughter told her she was moving further away from her to Tyrone.

Paternal Grandmother testified to supervising Father's visits wherein she was court-ordered to do so, but said she was not regularly there before that when the Child was with Father.

She also testified that she drove Mother to the Phoenix House, in North Carolina, for drug rehabilitation at Mother's request. She stated that she had been employed by the court and worked with commitments and knew that the Phoenix House was only for those with drug issues and that is where she took Mother.

DISCUSSION

The matter before this Court is Father's Complaint for Custody filed May 31, 2017 and Mother's relocation to Tyrone, Pennsylvania. Father is now seeking primary physical custody and shared legal custody. This Court heard testimony from the parties and their witnesses and we have weighed the evidence considering the burdens that apply to each of the parties pursuant to 23 Pa. C.S.A. § 5327 (a) – (b) and 23 Pa. C.S.A. § 5337.

DISCUSSION ON CUSTODY FACTORS

1. *Which party is more likely to encourage and permit frequent and continuing contact between the children and another party.*

Testimony by both parties indicate that Mother has failed to encourage and permit regular contact between the Child and his Father. In order to facilitate her wish to have primary custody of their Child when she moved in with her boyfriend in Tyrone, Pennsylvania, she distorted the facts about the move and then only allowed Father six (6) overnights over about five (5) months in 2017, and then again, in 2018, allowed Father no visits for over two (2) months. Mother's repeated reference to the Child as "my child" throughout her testimony causes this Court concern over her willingness to ensure that Father will have ongoing involvement with the Child.

2. *The present and past abuse committed by a party or member of the party's household, whether there is a continued risk of harm to the children or an abused party and which party can better provide adequate physical safeguards and supervision of the children.*

Neither party presented this Court with any evidence of abuse.

3. The parental duties performed by each party on the behalf of the child.

While Mother testified that she had been the Child's primary caregiver since birth, there was little testimony to support this fact. Little was testified to by either party as to with whom and where the Child lived or who cared for the Child, until the parties moved to Pennsylvania in 2016 to live with Maternal Grandmother. Additionally, little was said about the care of the Child up until the time Father was forced out of Maternal Grandmother's home. Father did testify that he had the Child with him, unsupervised, two (2) to four (4) days a week until Mother took the Child to Tyrone in May of 2017, after which she severely limited the Child's time with Father as detailed herein. It appears to this Court, that given the opportunity, both parents are able to perform the parental duties required to raise a child.

4. The need for stability and continuity in the children's education, family life and community life.

Testimony by both parents and the grandmothers indicate that the Child has moved quite often since birth. Mother had moved four times in less than a year and Father has moved twice. The Child is in school in Tyrone, but it is a K-3 program. Neither parent testified to any involvement by the Child in the community or with either of their families, except for the two (2) grandmothers. Paternal Grandmother did testify that Mother had restricted her time with the Child, along with restricting Father's time.

5. The availability of extended family.

Testimony by both parties indicate no availability of extended family near their current respective homes. Maternal Grandmother lives near Philadelphia and Paternal Grandmother lives in North Carolina. Mother did testify that she had family in the

Pittsburgh area but provided no testimony as to time the Child may have spent with this part of her family.

6. The children's sibling relationships.

The Child has no siblings.

7. The well-reasoned preference of the children, based on the children's maturity and judgment.

The Court did not interview the Child due to his young age.

8. The attempts of a parent to turn the children against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.

There was no testimony offered to believe that either party has attempted to alienate the Child from the other parent, other than Mother's severely restricting Father's time with the Child after moving in with her boyfriend.

9. Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the children adequate for the child's emotional needs.

The testimony of both parties indicate that the Child's life has been anything but stable given all their moves, job changes and overall disrupted family life. However, both testified to their lives having improved and both parents now appear able to provide their son with the loving, nurturing and stable life he deserves.

10. Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the children.

While Mother testified that she has been the primary caregiver since the Child's birth, other than her statement, there was little testimony about child rearing duties being performed by either party through the time Maternal Grandmother forced Father from her home. It is clear that, Mother decided when Father could see the Child and unilaterally assumed the role of primary custodian. However, it is clear from the testimony of both

parents that each is now likely to attend to the daily needs of the Child during their assigned custodial periods.

11. The proximity of the residences of the parties.

Mother relocated to Tyrone, Pennsylvania, which is about a two (2) hour drive from Harrisburg.

12. Each party's availability to care for the child or ability to make appropriate child-care arrangements.

While Mother provided no details about the childcare she is using in Tyrone, Pennsylvania, Father testified that he has located a facility for the Child that has childcare and K-3 at the same site. Father further testified that while in Mother's custody, the Child is required to change locations four times each school day.

13. The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.

Testimony by both parties indicate no intense level of conflict until Father disagrees with Mother's directives about custody of the Child. Both Mother's testimony and that of Father make it clear that so long as Father accepted what Mother determined to be best for the Child, there was no conflict, but when Father asserted himself in wanting regular custodial time with the Child, against Mother's wishes, Mother would just not cooperate.

14. The history of drug or alcohol abuse of a party or a member of a party's household.

There was ample testimony about Mother and Father's past drug use, including testimony about both entering a facility in North Carolina for rehabilitation. Father presented the results of a March 2, 2018 hair follicle test which indicated negative results along with

documentation concerning his ongoing compliance in a program at the Discovery House. Neither party presented any evidence of ongoing drug use by either party.

15. The mental and physical condition of a party or a member of a party's household.

There was no testimony about either party having mental or physical problems, other than Mother saying she went to rehabilitation for mental issue in 2015. There was no testimony provided about Mother's boyfriend's mental or physical health.

16. Any other relevant factors.

Other than Mother's relocation, which is discussed herein, there are no other relevant factors.

DISCUSSION ON RELOCATION FACTORS

23 Pa. C.S.A. §5322 (a) defines "Relocation" as "...[A] change in residence of the child which significantly impairs the ability of a nonrelocating party to exercise custodial rights." Mother failed to file the required Notice of Proposed Relocation pursuant to 23 Pa. C.S.A. § 5337, when she moved to Tyrone, Pennsylvania from Harrisburg, Pennsylvania. Mother testified that Father knew she was moving, however, Father testified that after he told Mother he would move closer to Tyrone, if she was moving, she said she was not moving and continued to have custody exchanges at her Harrisburg residence or a neutral location. Father therefore rented an apartment in the Harrisburg area.

- 1. The nature, quality, extent of involvement and duration of the child's relationship with the party proposing to relocate and with the nonrelocating party, siblings and other significant persons in the child's life.*

While Mother testified that she had been the Child's primary caregiver since birth, there was little testimony to support this fact. Little was testified to by either party as to with whom and where the Child lived or who cared for the Child, until the parties moved to Pennsylvania in 2016 to live with Maternal Grandmother. Father testified that once he left Maternal Grandmother's home he would have the child for two (2) to four (4) days a week depending on what Mother would allow. He added that the Child loved to play outside and color rocks to place around for others to find when with Father. Mother provided no testimony as to what she did with the Child, but testimony by both parents confirm that Mother held on to primary custody and Fathers ability to be involved with the Child was greatly diminished by Mother's actions once she relocated to Tyrone. There was no testimony as to the Child's significant involvement with persons other than his parents.

2. The age, developmental stage, needs of the child and the likely impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child.

There was no testimony to indicate the Child had any special needs even though Mother testified that she had diagnosed the Child with having a speech problem by looking on the internet. Neither party presented any testimony or evidence to show that the relocation would impact the Child's developmental, physical or educational needs, but there was ample testimony to show that the move to Tyrone would emotionally impact the Child's relationship with his Father given Mother's actions to thwart Father's involvement with the Child since she decided to move in with her boyfriend.

3. *The feasibility of preserving the relationship between the nonrelocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties.*

Given the two (2) hour drive from Tyrone to Harrisburg and the parties' financial situations, the feasibility of Father preserving his relationship with the Child if Mother remains in Tyrone is unlikely. Mother's efforts to severely limit Father's time with the Child over the past ten months further supports the doubt that Father will be able to maintain his relationship with the Child if Mother remains in Tyrone.

4. *The child's preference, taking into consideration the age and maturity of the child.*

The Court did not interview the Child due to his young age.

5. *Whether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party.*

This Court heard extensive testimony as to Mother's efforts to prevent Father from spending regular periods of time with the Child. Even when she had moved to Tyrone to live with her boyfriend, she allowed Father to believe she was not moving to discourage him from moving closer to Tyrone before he had to renew a lease.

6. *Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit or educational opportunity.*

Mother left a job paying \$56,000 a year to take a job earning \$36,000 a year to live with her boyfriend and share household expenses. Mother has no family in Tyrone, and in fact, she relocated further away from her Mother. Mother is not attending school in Tyrone. This Court heard little testimony that, except for being with her boyfriend, Mother's quality of life has improved by living in Tyrone.

7. *Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit or educational opportunity.*

Mother did testify that the child is doing well in the K-3 program in Tyrone but Father has found a K-3 program in Harrisburg. Mother's only significant reason for alleging the program in Tyrone was better for her was that it was at no charge. The testimony of both parties clearly indicates that there are no significant benefits to the Child in living two (2) hours away from his Father just so Mother can live with a boyfriend.

8. *The reasons and motivation of each party for seeking or opposing relocation.*

Mother relocated to live with her boyfriend of nine months and secure a free K-3 program for the Child. Father is opposing the relocation as Mother's actions over the past year have indicated she is willing to insure the Child does not have a relationship with Father and by living two (2) hours away, she can make it difficult for Father to be involved in the Child's life. Mother's incessant use of the term "my child" throughout her testimony is indicative of her position of Father's presence in the life of the Child.

9. *The present and past abuse committed by a party or member of the party's household and whether there is a continued risk of harm to the child or an abused party.*

There was no significant testimony on this factor.

10. *Any other factor affecting the best interest of the child.*

There was no significant testimony on this factor.

CONCLUSION

—After consideration of the matter and based upon our review of the statutory factors for both relocation and custody, this Court issues the following Order which provides for custody in the best interest of the Child.

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BRADFORD SAWYER,
Plaintiff

v.

ALYSE SAWYER,
Defendant

:IN THE COURT OF COMMON PLEAS
:DAUPHIN COUNTY PENNSYLVANIA

:
:NO. 2017 CV 04108-CU
:

:
:CIVIL ACTION – CUSTODY
:

DAUPHIN COUNTY
PENNA

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PROTESTANT
HONORARY

ORDER OF COURT

AND NOW, this 16th day of March 2018, after careful review of the pleadings, testimony and evidence, and based in the statutory factors, **IT IS HEREBY ORDERED** in the best interest of Connor Sawyer born April of 2014, (hereinafter "the Child") as follows:

THIS ORDER REPLACES ALL PRIOR ORDERS

LEGAL CUSTODY

1. Mother and Father shall share legal custody of the Child. All major legal decisions concerning the child, including, but not limited to, the Child's health, medical, dental, mental health, education, and religious training shall be made jointly by the parties, after discussion and consultation with each other, with a view toward obtaining and following a harmonious parenting plan, not in their own individual interests, but rather in the Child's best interest. Neither party shall impair the other party's rights

- a.) The parties shall communicate with each other to coordinate appropriate disciplinary techniques for the Child.
- b.) Day to day decisions shall be the responsibility of the party then having physical custody. With regard to any emergency decisions that must be made, the party having physical custody of the Child at the time of the emergency shall be permitted to make any immediate decisions necessitated thereby. However, that party shall inform the other of the emergency and consult with him or her as soon as possible.
- c.) **Absent an emergency, NO PARTY shall obtain medical care and/or have an initial interview with any health provider without the agreement of the other party.**
- d.) Both parties shall have the right to access the Child's medical, dental, religious and school records, the address of the Child and any other related information in accordance with 23 Pa. C.S.A. §5336(a). Both parties shall execute any and all legal authorizations so that the other party may obtain information from the Child's school, physicians, dentists, orthodontists, counselors, psychologists or other similar individuals or entities concerning the Child's progress and welfare.

PHYSICAL CUSTODY

- 2. Mother's relocation of the Child to Tyrone, Pennsylvania is denied.
- 3. **From the date of this Order until June 30, 2018**, custody of the Child shall be as follows:

- a. Mother shall have primary physical custody.
- b. Father shall have periods of partial physical custody as follows:
 - i. Beginning March 23, 2018, the first, second and fourth weekends of each month from 5:30 pm on Friday until 7:00 pm on Sunday, with such weekends to be determined such that Friday, Saturday and Sunday are in the same month. (For example, the first weekend of April 2018 would be April 6th, 7th and 8th.)
 - ii. Father's Day 2018, from 5:00 pm the Saturday before until 7:00 pm on Father's Day.
 - iii. Easter weekend 2018 from 8:00 am the Saturday before Easter until 7:00 pm on Easter Sunday.
 - iv. Memorial Day weekend 2018 from 5:30 pm on May 25th until 7:00 pm on May 28th.
 - v. ALL exchanges will occur at Sheetz, 24578 Route 35 N, Mifflintown, Pennsylvania 17059.

4. **From July 1, 2018** forward should Mother remain more than thirty (30) miles outside of Dauphin County, custody of the Child shall be as follows, **except that**, should Mother remain in Tyrone, Pennsylvania for the summer of 2018, Father shall have primary physical custody beginning July 1, 2018 and Mother shall have alternating weekends from 5:30 pm on Fridays through 7:00 pm on Sundays, with these weekends beginning the weekend of July 13, 2018:

- a. During the school year:

- i.) Father shall have primary physical custody.
- ii.) Mother shall have partial physical on alternating weekends beginning the first weekend after the start of school. These weekends shall begin at 5:30 pm on Friday and conclude at 7:00 pm on Sunday.
- iii.) ALL exchanges will occur at Sheetz, 24578 Route 35 N, Mifflintown, Pennsylvania 17059.

b. During the summer recess from school:

- i.) Mother shall have primary physical custody to begin the first Saturday at the end of school year and conclude the Saturday before the start of the new school year.
- ii.) Father shall have partial physical custody on alternating weekends, beginning with the second weekend at the end of the school year. These weekends will begin at 5:30 pm on Friday and end at 7:00 pm on Sundays.
- iii.) Father shall also have one uninterrupted week of partial physical custody, that will include one of his alternating weekends and not interfere with the holiday schedule as set forth in this Order. Father shall provide Mother with thirty (30) days written notice as to what week he will be exercising for his vacation.

OR

5. From July 1, 2018 forward, should Mother reside within thirty (30) miles of Dauphin County, custody of the Child shall be as follows:

The parties shall share physical custody throughout the year, on an alternating week basis, with Father's first week beginning at 5:00 pm on July 1, 2018. Thereafter, custody exchanges will occur at the Sheetz at 6290 Allentown Boulevard, Harrisburg, Pennsylvania, 17112 at 5:00 pm each Sunday.

HOLIDAYS

The holiday schedule set forth below shall begin July 1, 2018.

6. New Year's Day, Easter, Memorial Day, Independence Day, Labor Day. The parties will alternate these holidays with Father having Independence Day in 2018. The custodial period for these holidays will begin at 5:30 pm on the day immediately preceding the holiday and conclude at 7:00 pm on the holiday.
7. Thanksgiving Holiday. The parties will alternate the Thanksgiving Holiday with Father having this holiday in odd-numbered years and Mother having the holiday in even-numbered years. The custodial period for Thanksgiving will begin at 5:30 pm the Wednesday before Thanksgiving and conclude at 7:00 the Sunday after Thanksgiving.
8. Christmas Holiday. The Christmas Holiday will be divided into two (2) segments. Segment A shall be from December 23 at 6:00 pm through December 27 at 6:00 pm and Segment B shall be from December 27 at 6:00 pm through December 31 at 6:00 pm so as to allow the parties time to travel to see the Child's grandparents over the Christmas break from school. Father shall have Segment A in even-

numbered years and Segment B in odd-numbered years. Mother shall have Segment A in odd-numbered years and Segment B in even-numbered years.

9. Mother's Day and Father's Day. Mother shall have custody for Mother's Day each year and Father shall have custody for Father's Day each year. The custodial period shall begin at 5:30 pm the Saturday before and conclude at 7:00 pm on Sunday.

10. **The holiday schedule takes precedence over the regular custody schedule.**

11. All custody exchanges for the holidays will be the same as stated herein for the non-holiday custody exchanges.

GENERAL CONDUCT

12. During any period of custody or visitation, the parties shall **not** possess or use **controlled substances** or consume alcoholic beverages to the point of **intoxication**. The parties shall likewise assure, to the extent possible, that other household members and/or houseguests comply with this prohibition.

13. The parties shall provide to one another an emergency contact telephone number, email address or contact person, **immediately upon receipt of this Order**.

14. The parties shall refrain from making derogatory comments about the other parties in the presence of the Child and to extent possible shall prevent third parties from making such comments in the presence of the Child.

15. Each party shall promptly notify the other party of and invite the other party to, major events in the Child's life, including, but not limited to graduations, award presentations, performances, academic and athletic events and similar extracurricular activities.
16. Either party may attend any school, camp or other extracurricular activity in which the Child is enrolled regardless of which parent then has custody.
17. The parties shall permit and support the Child's access to family relationships and events (e.g., funerals, reunions, weddings, etc.). Events will be accomplished by both parties with routine periods of physical custody to resume immediately thereafter.
18. The parties shall organize ways for the Child to maintain his friendships, extracurricular activities and other special interests, regardless of which parent has custody. The parties shall confer with each other before arranging regularly occurring activities for the Child which might interfere with regular periods of custody.
19. The parties shall not alienate the affections of the Child from the other parties and their extended families. To the extent possible, the parties shall prevent third parties from alienating the Child's affections from the other parties as well as extended family.
- 20. Each of the parties shall exercise care in responsibly choosing child-care providers. The name and telephone number of all child-care providers shall be provided by the parties to each other.**

21.If either party suspects the other of using illegal drugs or abusing prescription medication, either party may request the suspected party to provide a drug screen test from a certified drug testing facility. The requested party shall report to the testing facility within twenty-four (24) hours of the request if such a facility is available within those twenty-four (24) hours. In the event no facility is available within the twenty-four (24) hour period, the requested party shall report when the facility is first available after the request has been made. No party shall request a drug test within the first sixty (60) days of this Order. The requesting party is responsible for all costs related to the test and may request any type of reasonable test (i.e., blood, urine, hair follicle, etc.) If the test for a party is positive that party's custodial periods shall be supervised until the party can provide a like test that is negative. In the event a party cannot secure an individual to supervise, that party's custodial time will be forfeited to the other party.

COMMUNICATION

- 22.Communication between the parties shall always be direct without using the Child as an intermediary. The parties shall not encourage the shall discourage the Child to report on the other party.
- 23.Each party shall be entitled to reasonable telephone, email, FaceTime or other electronic contact with the Child when the Child is in the custody of the other party so long as the communication is not excessive and does not disrupt the Child's schedule with the other party.

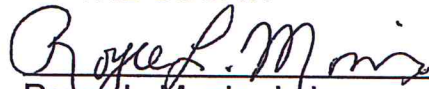
24. The parties shall each establish an account with www.bothparents.com and use this program to effectively communicate with each other about the Child. The parties shall use the email and shared calendar offered by this service.

RELOCATION

25. No party shall relocate the Child if such relocation will significantly impair the ability of the non-relocating party to exercise their custodial rights unless the other party consents in writing or the Court approves the proposed relocation.

- a. The party seeking relocation must follow the procedures required by 23 Pa. C.S.A. § 5337 as set forth in the attached Exhibit A.
- b. The parties are always encouraged to relocate closer to each other's residences.

BY THE COURT:


Royce L. Morris, Judge

DISTRIBUTION:

P. Richard Wagner, Esquire, 2401 N. Front Street, Harrisburg, PA 17110
Alyse Sawyer, 444 Irvins Road, Tyrone, PA 16686
Jennifer Lehman, Esquire
Court Administration
File


MAR 16 2018
I hereby certify that the foregoing is a true and correct copy of the original filed.

Prothonotary

EXHIBIT A

REQUIREMENTS REGARDING RELOCATION OF RESIDENCE

Relocation is defined as a move or change of residence that will significantly impair the ability of the non-relocating party to easily exercise periods of custody. You cannot relocate with the child(ren) without following these procedures. If contemplating such a move, you are strongly urged to seek the advice of an attorney to make sure that you are following the procedures. You are not permitted to relocate your residence without either:

- The consent of every individual who has custody rights to the child(ren) to the proposed relocation OR
- The court's approval of the proposed relocation.

NOTICE

1. The party proposing the relocation must notify every other party who has custody rights to the child(ren) of the proposed move. You must complete the attached "Notice of Proposed Relocation to Be Completed by Party Intending to Relocate" and send the notice to all other parties by certified mail, restricted delivery (addressee only), return receipt requested.
2. Notice must be given 60 days before the date of the proposed relocation OR 10 days after the date that the party knows about the relocation only if the individual did not know and could not have reasonably known about the relocation in time to comply with the 60 days notice or it is not reasonably possible to delay the date of relocation to comply with the 60 day notice.
3. You must include with this mailing the attached "Counter-Affidavit Regarding Relocation". The other parties must complete this form to indicate their position with regard to the proposed move.

WHAT DO(ES) THE OTHER PARTY(IES) DO WHEN THEY RECEIVE THE NOTICE AND COUNTER-AFFIDAVIT?

1. If you receive a notice of relocation and a counter-affidavit, and you object to the proposed relocation, you must complete the counter-affidavit. The non-relocating party must serve the counter-affidavit on the party proposing the change by certified mail, return receipt requested, restricted delivery (addressee only), or pursuant to Pa.R.C.P. No. 1930.4 within 30 days of receipt of the notice of proposed relocation. If there is an existing child custody case, the objecting party must also file the completed counter-affidavit with the Prothonotary's Office, Dauphin County Courthouse, 101 Market Street, Harrisburg, PA, within 30 days from the day you receive the notice and counter-affidavit.
2. If no objection to the proposed change of a child's residence is timely served after notice, the proposing party may change the residence of the child and this will not be considered a 'relocation' under the statute or rule.

WHAT DO I DO IF NO OBJECTION TO THE PROPOSED RELOCATION IS SERVED OR FILED?

If the party proposing relocation seeks an order of court, has served a notice of proposed relocation as required, has not received an objection to the move and seeks confirmation of the relocation, the party proposing the relocation shall file:

- A complaint for custody and a petition to confirm relocation when no custody case exists OR
- A petition to confirm relocation when there is an existing custody case AND
- A proposed order including the information set forth at 23 Pa.C.S. §5337(c)(3).

WHAT DO I DO IF A COUNTER-AFFIDAVIT IS SERVED ON THE PARTY SEEKING TO RELOCATE WHICH INDICATES THAT THE NON-RELOCATING PARTY OBJECTS EITHER TO THE PROPOSED RELOCATION OR TO THE MODIFICATION OF THE CUSTODY ORDER?

If the party proposing the relocation has received notice of objection to the proposed move after serving a notice of proposed relocation as required by 23 Pa.C.S. §5337 et seq., the party proposing relocation shall file:

- A complaint for custody or petition for modification as applicable;
- A copy of the notice of proposed relocation that was served on the non-relocating party;
- A copy of the counter-affidavit indicating objection to relocation; and
- A request for a hearing.

WHAT DO I DO IF THE RELOCATING PARTY HAS NOT DONE ANYTHING AFTER I SERVED THE OBJECTION TO PROPOSED RELOCATION ON THE RELOCATING PARTY?

If the non-relocating party has been served with a notice of proposed relocation and the party proposing relocation has not followed through with the procedure set forth above, the non-relocating party may file:

- A complaint for custody or petition for modification as applicable;
- A counter-affidavit as set forth in 23 Pa.C.S. §5337(d)(1) and
- A request for a hearing.

WHAT DO I DO IF THE NON-RELOCATING PARTY HAS NOT BEEN SERVED WITH A NOTICE OF PROPOSED RELOCATION AND SEEKS AN ORDER OF COURT PREVENTING RELOCATION?

If a non-relocating party has not been served with a Notice and seeks a court order preventing relocation, the non-relocating party shall file:

- A complaint for custody or petition for modification as applicable;
- A statement objecting to relocation; and
- A request for hearing.

Plaintiff _____

v. _____

Defendant _____

IN THE COURT OF COMMON PLEAS OF
DAUPHIN COUNTY, PENNSYLVANIA

NO. _____ CV _____ CU

CIVIL ACTION-IN CUSTODY

NOTICE OF PROPOSED RELOCATION TO BE COMPLETED BY PARTY INTENDING TO RELOCATE

You, _____, are hereby notified that _____ (Party Proposing Relocation) proposes to relocate with the following minor child(ren): _____

To object to the proposed relocation, you must complete the attached counter-affidavit and serve it on the other party by certified mail, return receipt requested, addressee only, or pursuant to Pa.R.C.P. No. 1930.4 within 30 days of receipt of this notice. If there is an existing child custody case, you also must file the counter-affidavit with the court in the Prothonotary's Office, Dauphin County Courthouse, 101 Market Street, Harrisburg, PA. If you do not object to the proposed relocation within 30 days, the party proposing relocation has the right to relocate and may petition the court to approve the proposed relocation and to modify any effective custody orders or agreements.

FAILURE TO OBJECT WITHIN 30 DAYS WILL PREVENT YOU FROM OBJECTING TO THE RELOCATION ABSENT EXIGENT-CIRCUMSTANCES.

1. What is the address of the proposed new residence? _____
☐ Check here if the address is confidential pursuant to 23 Pa.C.S. §5336(b).
2. What is the mailing address of the proposed new residence? _____
☐ Check here if the address is confidential pursuant to 23 Pa.C.S. §5336(b).
3. What are the name(s) and age(s) of all individual(s) who will be living at this new residence? _____
☐ Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).
4. What is the home telephone number of the intended new residence? _____
☐ Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).
5. What is the name of the new school and the new school district that the child(ren) will attend after relocation? _____
☐ Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).
6. What is the date of the proposed relocation? _____
☐ Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).
7. What are the reasons for the proposed relocation? _____
☐ Check here if the information is confidential pursuant to 23 Pa.C.S. §5336(b) or (c).
8. How do you propose to change the custody schedule that is currently in effect? _____
9. Is there any other information that is relevant to the proposed relocation? _____
10. I have included a counter-affidavit that you can use to object to the proposed relocation.

WARNING TO NON-RELOCATING PARTY

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

DAUPHIN COUNTY LAWYER REFERRAL SERVICE

213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made are subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date

Signature

Print Name

Address

Telephone Number

2-2015

Plaintiff

v.

Defendant

: IN THE COURT OF COMMON PLEAS OF
: DAUPHIN COUNTY, PENNSYLVANIA

: NO. _____ CV _____ CU

: CIVIL ACTION-IN CUSTODY

COUNTER-AFFIDAVIT REGARDING RELOCATION

1. What are the names and ages of the child(ren) affected by the proposed relocation? _____
2. Where do this/these child(ren) currently reside? _____

I have received a notice of proposed relocation and (check all that apply):

- ☐ I do not object to the relocation
- ☐ I do not object to the modification of the custody order consistent with the proposal for modification set forth in the notice.
- ☐ I do not object to the relocation, but I do object to modification of the custody order.
- ☐ I plan to request that a hearing be scheduled by filing a request for hearing with the court:
- ☐ a. Prior to allowing the child(ren) to relocate. ☐ b. After the child(ren) relocate.
- ☐ I do object to the relocation.
- ☐ I do object to the modification of the custody order.
- ☐ I understand that in addition to objecting to the relocation or modification of the custody order above, I must serve this counter-affidavit on the other party by certified mail, return receipt requested, addressee only, or pursuant to Pa.R.C.P. No. 1930.4. If there is an existing custody case, I must file this counter-affidavit at the Prothonotary's Office, Dauphin County Courthouse, 101 Market Street, Harrisburg, PA. If I fail to do so within 30 days of my receipt of the proposed relocation notice, I understand I will not be able to object to the relocation at a later time.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date

Signature

Print Name

Address

Telephone Number