

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: *Wilman v. Sutton*, 2015 NSSC 172

Date: 20150612

Docket: SFHMCA-068650

Registry: Halifax

Between:

Nancy Ann Wilman

Applicant

v.

Jerome John Sutton

Respondent

Judge:

The Honourable Justice Beryl A. MacDonald

Heard:

April 9, 10 and 27, 2015

Counsel:

Vanessa L. Jass, counsel for the Applicant;
Gregory L. Englehutt, counsel for the Respondent

By the Court:

[1] On July 19, 2010 a Consent Order was issued in this proceeding. The Order placed the parties' only child in their joint custody. The Mother was to have primary care and the Father was to parent the child:

- a. Every second weekend from 6:30 p.m. on Friday until 6:00 p.m. on Sunday
- b. Two non-consecutive overnight visits during the week, from 5:30 p.m. in the evening until he drops the child off at daycare or school the following morning. The parents agree to discuss the nights which are the most suitable.
- c. All other times as agreed upon by the parties.

[2] The parties had significant difficulty carrying out the terms of this parenting plan. The Order did not identify when the two non-consecutive overnight visits were to occur. The Father was not consistent. He did not produce, in advance, a schedule when he would have the child in his care during the week. He would frequently arrive to pick up the child late or return the child to the Mother rather than to the daycare or school. On occasion he would request to pick up the child early. He did not always clearly communicate these changes and requests to the

Mother. Police were often called to intervene. I have listened very carefully to the evidence presented in this proceeding and I am satisfied the Mother attempted, to the best of her ability, to accommodate the access requested by the Father and there were occasions when his requests were unreasonable.

[3] The Order did provide for two non-consecutive weeks of block vacation time during the summer and provided a mechanism to give a parent first choice of his or her vacation time with the child based on whether the request was in an odd or even year. The Father did not exercise this opportunity. He did not follow the ordered Christmas schedule and this also occurred in respect to other special and holiday access provided to him. The Father has many excuses to explain why he failed to abide by the terms of the Order while at the same time blaming the Mother for her failure to abide by its terms in respect to the regular parenting schedule.

[4] When questioned about the regular schedule the Father was argumentative and felt he was entitled to have the Mother carry out every request he made including who would transport the child for his parenting time, the clothing that was to be provided, and the recreational activities in which the child would be

enrolled. During testimony I had an opportunity to observe the Father's communication style and it is clearly confrontational and intimidating. The Father had no empathy for the Mother's point of view and to avoid argument she frequently ignored his requests or imposed an overly rigid interpretation about how the parenting plan should work. This was not the best strategy and led to his complaint that she was denying him access to the child.

[5] The Father clearly expected the Mother to work around his employment schedule. His employment did make it difficult for him to commit to the same two non-consecutive overnight visits. For a period of time he did not have suitable accommodation to provide for the child's stay overnight. Many parents are faced with employment scheduling challenges but nonetheless must request accommodation from their employer so they can parent their children. There is no evidence before me that the Father ever asked an employer for this accommodation.

[6] The Father requests the court to order a week on /week off shared parenting arrangement. He no longer intends to be employed in his previous work as a carpenter and has taken employment that he testified will give him a more regular

daily schedule. However he will be earning significantly less income than he has earned in the past and the Mother has requested that the court impute income to the Father.

[7] The Mother requests the continuation of the regular parenting schedule as imposed by Justice Williams in an Interim Variation Order granted January 6, 2015. Justice Williams was concerned about the conflict between the parties and decided they were not then in a position to manage mid-week access. It was removed. The Interim Variation Order provided the Father parenting time every second weekend with a pick up from the home of the Mother on Friday at 6:00 p.m. until Monday morning when he was to return the child to her school not later than 8:20 a.m. The Father was to be responsible for all transportation. The provisions of the previous Order in respect to vacation, holiday and special time parenting were to remain the same. The Mother requests that the child be picked up from her home at 6:30 p.m. on Friday and returned to her home by 6:30 p.m. on Sunday rather than a return to the child's school. The Mother is not in favour of midweek access. She believes the present arrangement has worked reasonably well for the child. There is less reason for, and there have been fewer arguments between the parents. The Mother also is of the opinion the child will be better

rested when attending school if the potential turmoil of midweek access remains removed from her life.

[8] When a court is asked to decide the parenting plan under which a child will live, the court is directed to decide what is in the best interest of the child.

[9] Many have attempted to describe what is meant by the term “best interest”.

Judge Daley in *Roberts v. Roberts*, 2000 CarswellNS 372 paragraph 1, said:

...These interests include basic physical needs such as food, clothing and shelter, emotional, psychological and educational development, stable and positive role modeling, all of which are expected to lead to a mature, responsible adult living in the community...

[10] In *Dixon v. Hinsley* (2001) 22 R.F.L. (5th) 55 (ONT. C.J), at para. 46 the following appears:

The “best interests” of the child is regarded as an all embracing concept. It encompasses the physical, emotional, intellectual, and moral well-being of the child. The court must look not only at the child’s day to day needs but also to his or her longer term growth and development...

[11] Several cases have attempted to provide guidance to the court in applying the best interest principle: See for instance *Foley v. Foley* (1993) 124 N.S.R. (2d) 198 (N.S.S.C); *Abdo v. Abdo* (1993) 126 N.S.R. (2d) 1 (N.S.C.A).

[12] In section 18 of the *Maintenance and Custody Act*, the legislature has summarized what should be considered by a court when it is asked to determine what arrangements are in a child's best interest. I will only reproduce those I consider relevant to this case:

(6) (a) the child's physical, emotional, social and educational needs, including the child's need for stability and safety, taking into account the child's age and stage of development;

(b) each parents' or guardians' willingness to support the development and maintenance of the child's relationship with the other parent or guardian;

(c) the history of care for the child, having regard to the child's physical, emotional, social and educational needs;

(d) the plans proposed for the child care and upbringing, having regard to the child's physical, emotional, social and educational needs;...

(g) the nature, strength and stability of the relationship between the child and each parent or guardian;...

(i) The ability of each parent, guardian or other person in respect of whom the order would apply to communicate and cooperate on issues affecting the child;

(8) in making an order concerning care and custody or access and visiting privileges in relation to a child, the court shall give effect to the principle that a child should have as much contact with each parent as is consistent with the best interest of the child,...

[13] Subparagraph 8 does not suggest there is to be a presumption it is in the best interest of children to be parented by both parents in a joint custodial equal time sharing arrangement, although many strive to suggest this is so. The question is - what arrangement is in the best interest of children given their ages, stage of

development, personalities, educational and other needs in the context of the ability of each parent to carry out his or her parental responsibilities and obligations?

[14] Because shared parenting provides significant contact between a child and both parents, many consider this to be the best parenting arrangement for every child. There are often many practical reasons why shared parenting is not in a child's best interest, geographical distance for example. In addition there are many parenting deficiencies, unresolvable conflict, for example, that may result in a finding that shared parenting is not in the child's best interest.

Shared Parenting

[15] In *Farnell v. Farnell*, 2002 NSSC 246 (N.S.S.C.), one of the early decisions that provided guidance about the factors to consider when applying the best interest principle to a request for shared parenting, Justice Goodfellow commented:

[10] ...Shared custody rarely in my experience works and only seems to where there is present an environment where the children thrive

when the children are able to fluidly move from one home to another by reason of parents who are mature in circumstances and reside in such close proximity that the children can go back and forth themselves, continue in the same school, continue with extracurricular activities, church or other activities that they would normally engage in. Such a situation is next to impossible to attain and continue when children live at long distances. . .

[16] Decisions such as *Baker-Warren v. Denault*, 2009 NSSC 59 (N.S.S.C.), and *Murphy v. Hancock*, 2011 NSSC 197 (N.S.S.C.), suggest consideration of the following factors:

- impact of two residences upon the child's presently established relationships with a school, a day care facility or non-parental caregiver, friends, extended family and recreational activities. Will they be maintained or diminished?
How will the parent help the child adjust to the changes required?
- whether there are significant differences in the residences and the lifestyle of the child when living with either parent;
- impact of transitions between residences upon the child and the parents. Will these have negative consequences for the child? How will the parents help

the child adjust? Will these cause conflict between the parents? How can that be avoided? Can these transitions be accommodated within each parent's work schedule?

- availability of each parent, step parent (if there is step parent), or extended family members to personally care for the child and availability and willingness to provide care when the parent, in whose care a child is to be according to the schedule, is unavailable;
- whether there are significant differences in discipline technique, daily routines, value transmission, support for required medical, dental and educational interventions, and support for recreational activities;
- whether there has been conflict, including domestic violence, in the parents' relationship and its impact and potential impact upon the child;
- whether both parents' "parenting style" provides a "good fit" for development of the child's personality and interests;

[17] To these I would add:

- What does the parent know about child development and is there evidence indicating what is suggested to be “known” has been or will be put into practice?
- Can the parent set boundaries for the child and does the child accept those restrictions without the need for the parent to resort to harsh discipline?
- Does the child respond to the parent’s attempts to comfort or guide the child when the child is unhappy, hurt, lonely, anxious, or afraid? How does that parent give comfort and guidance to the child?
- Is the parent emphatic toward the child? Does the parent enjoy and understand the child as an individual or is the parent primarily seeking gratification of his or her own personal needs through the child?
- Can the parent examine the proposed parenting plan through the child’s eyes and reflect what aspects of that plan may cause problems for, or be resisted by the child?

- Has the parent made changes in his or her life or behaviour to meet the child's needs, or is he or she prepared to do so for the welfare of the child?

[18] Parents in a shared parenting arrangement must exhibit an ability to cooperate and jointly plan for their children. They must be able to do so on a continuous basis, far more frequently than is expected from parents who have other parenting arrangements. Conflict and the potential for conflict must be at a minimum. Each parent must respect the other and their value systems. Methods of discipline should not be substantially dissimilar.

[19] Parents must be able to communicate face to face. They must respond quickly to inquiries from the other parent about issues involving the child, focusing on the child's need not on the parent's issues. Routines in each household should be similar to ensure the child is not confused by or encouraged to become oppositional because of different standards and expectations in each home.

Conflict

[20] Conflict between parents does not necessarily mean they cannot be awarded shared parenting if there is sufficient indication of their ability to place the needs of the child before personal needs and to cooperate on issues of vital importance to the child. (*Gillis v. Gillis* (1995), 145 N.S.R. (2d) 241 (N.S.S.C.); *Rivers v. Rivers* (1994), 130 N.S.R. (2d) 219 (N.S.S.C.))

[21] Many of the questions I have posed above remain unanswered. Instead these parents have provided great detail about all of the unpleasant events that have occurred between them. They did not provide information about the character and personality of their child. They did not tell the court about how they discipline the child, how they comfort the child, or about how they intend to foster the development of the child's relationship with the other parent.

[22] In this case the Mother has shouldered the burden of the parental responsibilities. Because the parties cannot cooperate it is very difficult to divide the parenting tasks between them although the Father professes a desire to

communicate with teachers and doctors and others who provide services to the child and both parties have requested joint custody continue.

[23] Neither of these parents understand how children commonly react to transitions and, as is so often the case, any uneasiness expressed or shown by the child is taken to be an indication of the failure of the other parent, resulting in suggestions the child either does not want to go with a parent or return to a parent. The lack of respectful communication between these parents has exposed the child to conflict at transitions and this may continue if these parents do not learn how to prevent it from occurring. Counselling is expensive and often unavailable. However these parents should access the parenting programs provided by organizations such as Family SOS. These programs provide information about child development and about the parenting issues that frequently arise when parents no longer live together but must remain in contact because each wants to participate in the care of their child.

[24] I am concerned about the transitions that have occurred at the Mother's residence and the potential for conflict there. I am concerned about transitions to and from the maternal grandmother's home for the same reason. But if the child is

to be picked up from school or at another child care provider's facility the child must have a packed suitcase that will travel with the child to school and to the child care provider. Generally I am not in favour of young children carrying suitcases into their school or from their school to an after school child care provider. Older children can better manage this. Sometimes this is acceptable when both parents have a full complement of clothing for the child. This child is only 6 years old and clothing has been an issue between the parents. Nevertheless, this parenting plan will permit pickup or drop offs at a school or child care provider when she is attending school, but she will need to be transitioned to and from the Mother's or maternal grandmother's residence when school is not in session. All those involved during transitions must realize this child has a right to develop her relationship with the Father. They are to assist the child at transitions. They must, through their words and actions, make the child feel safe when leaving one parent for another. They must realize transitions are not the time to discuss issues they may have with a parent except to provide necessary information about the child not previously discussed.

Parenting Plan

[25] The evidence before me suggests the child has a secure bond with her Father and enjoys his company as he does hers. I am not satisfied that midweek access is as disruptive to the child as the Mother suggests and I do consider it is in this child's best interest to be parented by her Father somewhat more than every second weekend. However, these parties are not yet ready to share parenting of their child. They are in need of a very detailed order to set out their responsibilities and I have attempted to do this in the parenting plan that is attached as Schedule "A" to this decision. I did not have the dates for the Father's present weekend access. Counsel drafting the Order may change the commencement date for weekday and weekend access to correspond to the present schedule.

[26] In the parenting plan I have provided, if the Father is available to parent the child no later than 4:30 p.m. during a weekday, he will have access overnight on Monday and Wednesday of the week when he does not have weekend access, from after school or no later than a 4:30 p.m. pick up from a child care provider. His care of the child will continue until the following morning when the child will be

returned to school or, during the summer and for other occasions when school is not in session, to her child care provider or to the Mother's residence. The Father will be responsible for transportation and he is the person who is to be present to pick her up and drop her off. He is to have clothing available, for use while in his care, and he is to clean and return the child in the clothing she was wearing when he picked her up.

[27] If at any time the Father's work schedule does not permit him to pick up the child by 4:30 p.m. then he will not have mid-week access on that occasion. Given the child's age a later pick up would only provide time to prepare the child to go to bed. Although such limited parenting time may have its attraction, as opposed to no mid-week access, it is often too short a duration to be meaningful and may only cause this child to stay up later than is advised and be tired the next day as a result.

[28] Except for urgent matters, if the parties must discuss something concerning the child they shall do so by e-mail or text message until they are able to discuss the child's needs and changes to the parenting plan in person or over the phone without escalation into an argument that may be overheard or witnessed by the child.

Child Maintenance

[29] The Consent Order dated July 19, 2010 does not state the total annual income of either parent. It requires the Father to pay child maintenance in the amount of \$200.00 per month to be “adjusted with the cost of living each year”. No definition for “cost of living” was provided. No reporting service was referenced from which a “cost of living” adjustment could be calculated. In this proceeding it is evident neither parent knew what this meant nor how they might calculate this adjustment.

[30] The Consent Order also required the Father to pay 50% of the cost of childcare. The Mother was to “provide written confirmation of the costs of daycare.” The Order provisions acknowledged the Father was paying less than the child maintenance guideline amount because of a division of matrimonial property in the Mother’s favor including the Father’s release of his interest in the matrimonial home. The Order then provides:

12 Upon (the child) reaching four years of age, (the Father) shall pay child support in accordance with his income, based upon the Federal Child Support Guidelines. After such time as (the Father) is paying child support in accordance with the Federal Child Support Guidelines, the amount of support payable shall be adjusted in July each year based on (the Father's) income.

13 The parties agree that they will split any special or extraordinary expenses for (the child) in proportion to their incomes. Special expenses shall include medical or dental expenses not covered by health insurance, extra-curricular activities, school trips, snow suits, etc.

[31] The Father was required to provide the Mother with his income tax return on an annual basis on or before June 15. The same provision did not appear in respect to the Mother's income tax return even though the parties were to share special or extraordinary expenses "in proportion to their incomes".

[32] The Father believed he did not have to pay child care expenses when he did not receive “written confirmation of the costs of daycare”. The evidence suggests the Mother did not always provide this information to him. On the other hand he rarely asked her about the cost of child care. He apparently knew enough to, (inappropriately), claim this expense on his income tax. He also (inappropriately) deducted his child maintenance payments. He informed the court his tax returns were prepared by a person with tax preparation experience. I do not believe him. I believe he prepared these himself and that he only did so at the last moment because of this court application. The Mother commenced this application in November 2013. No financial information was filed by the Father until March 26, 2015 although there were repeated directions and orders issued requiring this filing. The Father may now be under audit by the Canadian Revenue Agency.

[33] In the course of this proceeding the Father was provided detailed information about the cost of child care and he has paid a lump sum toward the amount considered due and owing by the Mother. He alleges he paid more than the Mother has included in her calculation but he has not provided any information to support his claim or to quantify it. He also believed that when the child reached 4 years of age the Order only required him to pay table guideline child maintenance.

He disagreed that the requirement “to pay special and extraordinary expenses proportional to income” applied to the child care expense.

[34] The wording used in the Order is problematic. It refers to items that would not be considered “a special or extraordinary expense” as those words have been defined in reference to the child maintenance guidelines – the purchase of “snow suits” for example. However, I am satisfied the Order must be read to require the Father to pay his proportionate share of child care expenses after the child’s 4th birthday because the guidelines include this expense specifically in section 7.

[35] The Mother requests a retroactive calculation of child maintenance table guideline and section 7 expenses from January 2011 to date. I am familiar with the factors to be considered as outlined in the case of *DBS v. SRG, LJW v. TAR, Henry v. Henry, Hiemstra v. Hiemstra*, 2006 SCC 37. In respect to delay by the recipient to request increased child maintenance, the testimony indicates the topic of child maintenance, and the amount of the Father’s total annual income, was frequently discussed. The Father never did provide the Mother with the income information she requested. Complicating the issue is the fact that the parties did attempt a reconciliation from September 2011 until October of 2012, during which

time the Father continued to pay the child support required by the July 2010 Order. The Mother testified the parties did not actually live together during this time except from August 2012 until October 2012. The Father suggests a longer period of co-habitation. The Father argues that a recalculation in his favour should be made for that period of time. In August 2013 the Father increased his payments to \$550.00 for three months but then it appears he paid nothing until he was ordered to do so in May 2014.

[36] As a result of the Mother's application, filed in November 2013, the Father was aware of her request for an increase in and recalculation of child maintenance. The Interim Order issued May 16, 2014 required him to pay table guideline child maintenance in the monthly amount of \$481.00 and a section 7 contribution toward child care in the monthly amount of \$155.00. Although the Order did not specify the income amount upon which the payment was based it would suggest an annual income of \$57,000.00.

[37] Justice Bastarache discusses blameworthy conduct in D.B.S. and at paragraph 108 he says:

[108] On the other hand, a payor parent who does not increase support payments automatically is not necessarily engaging in blameworthy behavior. . .

[38] This Father certainly did not inform the Mother about his annual income. He made no attempt to determine, until very recently, what his annual income was. He lived from pay check to pay check and his account keeping is chaotic. While it may be excusable for a parent to believe he is meeting his child maintenance obligation by paying what has been ordered to pay, this may only protect against a retroactive award as long as there has been no request for an increase, or for income information to determine if an increase is justified. The Father in this case has known at least since 2013, and likely before, that the Mother was not satisfied with the amount of child maintenance he was paying. His changes in income were substantial. His conduct has been “blameworthy”.

[39] Given the age of the child she will benefit from a retroactive award.

[40] The Father has argued he does not have ability to pay because, among other reasons, he has the responsibility to pay debts accumulated during the parties’ relationship. I will comment upon the Father’s income later in this decision. He

does own assets, most notably a condo. At the time the parties separated he also had a “stock trading account”, R.R.S.P’s and a Tax Free Savings Account. These were described in the 2010 Consent Order. He was to pay the Mother \$35,000.00 to obtain a release of her interest in those assets. I also note the Order required the Mother, “...on or before July 14, 2011 (to pay) \$6,500.00 to the line of credit account representing her half share of the joint debt.”

[41] An unsworn Statement of Property for the Father was entered as Exhibit #23. It appears he continues to own the assets described in the 2010 Consent Order. No accurate values for these assets were provided. He showed a very modest credit card and line of credit debt. Exhibit #17 is the Father’s Statement of Expenses filed March 26, 2015. Under Rent/Mortgage the monthly payment is \$626.62. He pays \$190.00 monthly on a line of credit and \$100.00 on a credit card. The Father tried to distance himself from the amounts used in his Statement of Expenses testifying he did not know how his lawyer came up with the numbers. He testified he had a much greater debt than is reflected in the documents received in this proceeding. If he does, he has provided nothing to substantiate that debt. From the evidence before me he does not appear to have a “high level of debt” and the

Mother has taken responsibility for her share of the “family debt”. The Father has ability to pay a retroactive award.

[42] A retroactive award is granted but I do not intend to adhere to a dollar for dollar calculation. The period I have considered during which changes should have been made begins in 2013. I have decided the Father is to pay the Mother \$5,000.00 as an award for retroactively calculated child maintenance to December 30, 2014. This amount has taken into consideration what he has already paid to the Maintenance Enforcement Program up to December 30, 2014.

[43] The Father’s income since 2011 was as follows:

2011	\$ 29,760.00
2012	\$ 54,037.00
2013	\$ 61,705.00
2014	\$ 42,330.00

[44] The Father’s income generally came from his work as a carpenter. His highest earnings were received when he worked in Alberta but he would prefer to remain in Nova Scotia. He has obtained employment selling insurance. He will have consistent hours of daytime work that will permit him to parent his daughter. I understand his previous work did impede his ability to adhere to a consistent

schedule of parenting but this child needs financial support as well as parenting by her Father. He is uncertain about what he will earn from this new employment. He suggests he will earn \$35,000.00. Given his earnings to date this may be overly optimistic. The Mother suggests I impute income to him in the amount of \$52,700.00, an amount she arrived at by averaging his income since 2012. I do not consider this to be an appropriate use of section 17 of the Child Maintenance Guidelines. I consider this section more appropriate for those who are employed by the same employer earning income that may vary up or down from year to year because of, for example, payment on a commission basis or with the inclusion of bonuses. The Father's income varied because the nature of his work was different from job to job as was his employer.

[45] I am concerned the Father may now be underemployed. It appears he can earn more as a carpenter than he is likely to earn in insurance sales. In recognition of his carpentry skills and his desire to stay in Nova Scotia, where it is unlikely he will earn the same amount as he might in Alberta, I have decided to impute income based upon what he earned in 2014. The Father's total annual income for calculation of child maintenance is \$42,330.00. Commencing January 1, 2015 he is to pay \$356.00 per month for table guideline child maintenance.

[46] I know the Mother will need child care for the summer months and she may need before and after school child care. However, I am not satisfied I have accurate calculations for the net cost of child care for 2015. I can estimate cost pursuant to section 7 and I have decided to require the Father to pay the amount of \$100.00 per month commencing July 1, 2015 toward the child care cost. Any other costs that fall within the definition of a Special and Extraordinary Expense are to be shared proportional to the parties' income. The Mother's annual income is \$45,733.00 and therefore the Father is to pay 48% of those expenses and the Mother is to pay 52%. I retain jurisdiction to adjust the child care payment amount if my estimate is inadequate based upon the properly calculated net cost or if it has overstated that cost. I have used an actual dollar amount to be paid monthly because collection of that amount can be enforced by the Maintenance Enforcement Program.

Change of the Child's Surname

[47] The Mother has requested a change to the child's surname by adding her surname hyphenated with the Father's surname. The Father does not consent to this change. The only provision of the Change of Name Act, R.S.N.S. 1989, c.66 that applies to this situation is section 10 (1) (h). This section permits a judge to change

a child's name by dispensing with the consent of a person "...whose consent in all the circumstances of the case ought to be dispensed with," and "...if it is in the interest of the person whose name is to be changed to do so."

[48] The Father objects to the change of name because the child's surname was chosen by both parents at her birth and the child has been known by that name since her birth. He argues there is no identifiable benefit to the child if this change is made.

[49] The evidence about the choice of the child's name is somewhat unclear. However this is the surname the Mother has used for the child since her birth. The Mother considers it appropriate that her surname also be a part of the child's name to prevent confusion about maternal parentage. I have no evidence that there is any confusion around the child's parentage. The Mother believes it is important that her surname survive to be passed on through the child. However, this child may marry and change her name so there is no guarantee familial heritage will be passed on merely because the child's surname contains the surname of her Mother. In addition these names can become long and unwieldy. Finally the Mother may

marry and decide to change her name. There is no information provided to me that indicates it is in the “interest” of this child to order a change to her surname.

Beryl A. MacDonald, J.

Attached: Schedule “A”

Schedule "A"

PARENTING PLAN

Decision Making

1. The Mother and Father shall have joint custody of the child meaning they must agree about decisions that have significant or long lasting implications for the child or that will impose responsibilities on a parent - for example, decisions about physical or mental health, dental care; counseling; child care; education and, subject to paragraph 23, recreational activities.

Day to Day Decisions

2. With respect to daily decisions, not those involving significant or long lasting implications for the child, and including non-emergency medical care, the parent who has care of the child according to the parenting plan is to be the decision-maker with the other parent being advised about non-emergency medical care decisions made.

Emergency Decisions

3. With respect to emergency decisions, the parent who has care of the child according to the parenting plan is to be the decision-maker with the other parent being advised as soon as possible about the emergency and the decision made.

Primary Care/Access

4. The Mother shall have primary care of the child.

Access/Parenting Time

General Terms

5. Vacation, holiday and other special time arrangements for both parents shall cause the regular schedule to be suspended. If the holiday or special time falls on

the Father's Monday or Wednesday access there will be no make-up time for the days he will miss. If the holiday or special time falls on the Father's weekend access time and places the child in the Mother's care for the entire weekend, the regular schedule is to resume with the child to be in his care on the weekend after the holiday or special occasion.

6. The Mother is not required to rearrange the access/parenting time schedule because the Father is unable for any reason to comply with the schedule or because the child is ill. She may consent to a change of schedule should she wish to do so.

Regular Access

7. Commencing June 22, 2015 the Father shall have access, during the week the child is to be in the Mother's care on the weekend, on Monday and Wednesday after school or no later than 4:30 p.m. if the child is to be picked up from the Mother's residence, or from a child care provider, until the next morning when she is to be returned to her school at the time required by the school for the start of the schoolday, or to the Mother's residence or to a child care provider, at the time he is informed by the Mother the child is to be returned.

8. Commencing July 3, 2015 the Father shall have access every second weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.

Long Weekends with a Monday Holiday

9. If because of the regular access schedule the child is in the Father's care on a long weekend with a Monday holiday the child shall continue in his care until 6:00 p.m. of that Monday.

10. If because of the regular access schedule the child is in the Mother's care on a long weekend with a Monday holiday the child shall continue in her care that Monday.

Mother's/Father's Day

11. Regardless of the regular access schedule the child shall be in the care of the Father on Father's day from 9:00 a.m. until 6:00 p.m. and in the Mother's care on Mother's day from 9:00 a.m. and if the child was in the Father's care because of the regular access provisions the child will not be returned to the Father's care that Sunday.

Easter Holiday

12. Commencing 2015 and in all odd numbered years the Father shall have access with the child from after school on Thursday at the beginning of the Easter school break until Tuesday morning when she is to be returned to her school at the time required by the school for the start of the school day.

13. Commencing 2016 and in all even numbered years the Mother shall have the child in her care for the Easter school break.

Christmas Holiday

14. Commencing 2015 and in all odd numbered years the Mother shall have the child in her care from the beginning of the Christmas school break until December 26 at 12:00 p.m. when she is to be in the care of the Father until 6:30 p.m. January 1.

15. Commencing 2016 and in all even numbered years the Father shall have the child in his care from the beginning of the Christmas school break until December 26 at 12:00 p.m. when she is to be in the care of the Mother until the resumption of the regular schedule after January 1.

March School Break

16. Commencing 2015 and in all odd numbered years the Mother shall have the child in her care for the week days of the March School Break. The regular access schedule continues to apply to the weekends before and after the Break.

17. Commencing 2016 and in all even numbered years the Father shall have the child in his care for the week days of the March School Break. The regular access schedule continues to apply to the weekends before and after the Break.

Summer School Break

18. Each parent is to have the child in his or her care for two consecutive weeks (14 days) during the child's summer schoolbreak.

19. In odd numbered years the Mother is to have first choice of that two week period and in even numbered years the Father is to have first choice.

20. The parent with first choice must notify the other parent of his or her choice, including the time when the child will be picked up and returned, on or before April 30 of each year and the other parent must provide notice of his or her choice on or before May 15th of that same year.

Children's Birthdays

21. The parent who is not caring for the child on that child's birthday is to have parenting time with that child from 4:00 p.m. until 6:30 p.m. on that day and that parent is to provide the required transportation.

Additional Access/Parenting Time/Changes

22. Additions, deletions, and changes to this parenting plan may be made upon agreement of the parties in writing and an exchange of e-mail or text message confirming clear acceptance of the proposed change is an "agreement in writing" for this purpose.

TERMS and CONDITIONS

Recreational and Other Activities

23. Neither parent shall schedule an activity for the child (such as but not limited to, organized sports, lessons, recreational activities, or social activities such as

birthday parties or sleepovers) during the other parent's parenting time without the consent of the other parent and that consent shall not be unreasonably withheld.

24. Neither parent is required to contribute financially to any recreational activity in which a child is enrolled unless he or she agrees to contribute.

25. A parent who has care of the child according to the parenting plan must ensure the child attends all recreational and social activities he or she has agreed the child is to attend.

Right to be Informed

26. The Mother must inform the Father about any significant changes, problems or recommendations relating to the child's physical and mental health, dental care, physical and social development, and education including the responsibility to send a copy of the child's school progress reports, and all written reports received from service providers about changes, problems or recommendations.

Contact Information About Service Providers

27. The Mother must provide the Father with the name, address, telephone number, and other contact information for the persons or institutions providing services to the child - for example, the child's physician, dentist, therapist, teacher, and child care and recreational provider and she must update him if there are any changes.

Right to contact Third Parties

28. The Father is entitled to directly contact the children's doctors, dentists, therapists, teachers, and other third party service providers to request and receive information and consult about the child.

Transportation

29. Unless the parenting plan states differently, the Father is to provide all transportation (picking up and returning child) required to comply with the details of the parenting plan.

Parties' Addresses/ Contact Information

30. The parents must provide each other, and continue to provide each other, their current addresses, telephone numbers, e-mail addresses and all other contact information.