

RICHARD W. ZINCK, : IN THE COURT OF COMMON PLEAS OF  
 : LYCOMING COUNTY, PENNSYLVANIA  
 Plaintiff :  
 : CIVIL ACTION - LAW  
 vs. : NO. 91-21,200  
 :  
 JENNIFER BISER, :  
 :  
 Defendant : CUSTODY/VISITATION ADJUDICATION

*Date: September 20, 2001*

**ADJUDICATION, FINDINGS AND DISCUSSION**

I. **Background.**

1. Plaintiff is Richard Zinck (hereafter "Father") and Defendant is Jennifer Biser (hereafter Mother). They are the parents of a minor child, Logan W. Zinck, born January 10, 1991.

2. Currently, Mother has primary physical custody of the Child and Father has partial custody, as set forth in a stipulation which was made an Order of Court on August 16, 1991.

Basically, Father has partial custody on alternate weekends; every Wednesday evening; alternate minor holidays; two weeks during the summer. The parties share time at Thanksgiving and Christmas.

3. On October 20, 2000, a Petition for a Plowman Hearing and also requesting primary custody was filed by Father. The Plowman petition was withdrawn when Mother indicated she was no longer going to relocate. However, the issue of primary custody was preserved and was referred for conference and then mediation. It has been reported to the Court that mediation was not successful.

4. A custody hearing was held on August 21, 2001. This was continued because of the untimely death of Father's mother shortly after she testified at trial. A continued hearing was held on September 6 and 7, 2001.

II. **Findings Of Fact.**

1. Mother is age 31, a high school graduate who lives at 126 North Broad Street, Jersey Shore, Lycoming County, Pennsylvania. She has maintained this residence for ten years. She has never been married.

2. Logan primarily resides with Mother and stepsiblings Kristen Dowling, age 7 (date of birth January 13,1994) and Evan Willits, age 2 (date of birth May 23, 1999). Richard Zinck is not the father of these children. Mother's single family home is in a mixed residential/commercial area next to another home, a paved parking lot and close to the bank where Logan's grandmother, Patricia Biser, works. The home has three bedrooms. Logan shares his bedroom with his stepbrother, Evan. The home has a yard, a swing set and is used by Logan and his friends for playing games.

3. Mother has usually been employed for the last ten years but in various places.

4. Mother has been employed as a certified nurse's aid at Manor Care Nursing Home in Jersey Shore since July 2000. She earns \$7-\$8 per hour (approximately \$15,000-\$16,000 annually). It takes her approximately fifteen minutes to drive to work. Her work hours are 6:30 a.m. until 2:30 p.m. In alternate weeks, she works Monday through Thursday, is off work Friday and works Saturday and Sunday; then she is off Monday, works Tuesday through Friday and is off Saturday and Sunday.

5. Mother's previous employment was in various sewing factories, changing jobs at least seven times in ten years.

6. During the school year in the mornings Mother takes Logan and Kristen to her Mother, Patricia Biser's home in Jersey Shore at approximately 6:00 a.m. and Evan to a babysitter's. Patricia Biser then takes Logan and Kristen to school at 8:00 a.m. Logan usually goes back to sleep after getting to his grandmother's home.

7. Logan, Kristen and Evan are closely bonded.

8. Mother has had primary physical custody of Logan since his birth.

9. Father's pursuit of primary custody arose after Mother contemplated relocating out of the area and also Logan saying he wants to be with Father. Mother has no current plans to relocate from the area.

10. Father is age 36, a high school graduate; he also attended a vo-tech school and is a certified welder.

11. Father has been married for nine years to Tina Zinck, who is age 33. This is the first marriage for both parties. There are two children born of the marriage, Dillon, age 8 and Karisa, age 5. Since 1992 they have lived at 476 Front Street, Antes Fort, Lycoming County, Pennsylvania.

12. Father's home, which was built in 1974, has three bedrooms. When the minor Child (Logan) is there he shares a bedroom with his half-brother, Dillon. The family is currently renovating the lower level, which will have an additional bedroom for Logan and (eventually) a family room.

The house is on 2.2 acres. There is a large above ground swimming pool; a trampoline; a swing set and a large grass area.

There is a playground one-quarter mile away. Father's sister lives nearby and his mother, prior to her death, lived in a mobile home in the immediate neighborhood.

In the home are a computer, Playstation and books. The family has a four-wheel ATV.

13. Father is employed by MetFab, Division of Jersey Shore Steel, as a maintenance technician and makes approximately \$26,000.00 per year. Father works from 7:00 a.m. until 3:00 p.m.

14. Tina Zinck is employed by Trucklite and works from 6:00 a.m. until 2:30 p.m. Tina is always home when the kids get home from school. Tina makes approximately \$22,000.00 per year.

Tina is ready to take on the added responsibilities of being a full-time stepmother; that she does not treat Logan any differently than she does the other two children. Tina gets along well with Logan, and he respects her. Tina described activities in which they engage indicating that she last took the kids to see the movie "Rugrats In Paris".

15. On school mornings Father takes the children to daycare with Canda Boatman, who is a certified daycare provider. They are also with her during the summer when the parents work. She has one or two assistants, depending on the number of Child there. She drives the Zinck children to school. They take the bus home. Logan would follow this same schedule if he lives with Father during the school year.

16. Father testified that he was from a family of eight children (two are deceased; one lives in Georgia and the rest reside locally). The family regularly gets together for holidays and picnics,

which Logan enjoys. This occurs six to eight times a year. They usually try to arrange this so that Logan can be present. The most recent family gathering was on August 4, 2001 when the family gathered at R.B. Winter Dam. They swam, played games and had a picnic. There were approximately 22 family members present, including Logan. Mother's family is smaller and not as closely knit. However, they also gather for summer-time cookouts and reunions, which Logan enjoys.

17. Logan is treated no differently than his half-brother, Dillon, and his half-sister, Karisa. They are a close and loving family. The extended family gathers for holidays and other events. Logan is a "good kid", but most of them have observed his Father having to discipline him, on occasion. Father does this by "time outs". Logan seems to get along very well with his stepbrother and stepsister, cousins and friends.

18. Logan when at his Mother's, has to frequently had to get up in the middle of the night with his stepbrother, who is now two years old. Logan was told not to disturb his mother's sleep. He has also given his half-brother baths. This has had a minimal adverse impact on Logan and has also created a strong bond between the boys. Logan also does household cleaning and laundry chores at Mother's without any detriment but instead demonstrating some maturity and responsibility. At Father's his chores consist of mealtime help and keeping a clean room, typical 10-year old chores.

19. Logan's favorite activities include playing with two close friends at his Mother's home and also bike riding there. At Father's his favorite activities are swimming and playing with a neighbor girl. He also likes to fish and go hunting with his Father. He does many of the same type of activities with each parent.

20. Logan has engaged in football and wrestling. He is currently enrolled with the AYSO soccer program. Both parents frequently but not always attend these activities. Both cooperate to see Logan attends these events and the necessary practices.

21. Both Father and Mother live in the same school district. Both have attended the school open houses each year and school festivals.

22. Logan has always done very well in school; he is a bright student who never had to work too hard. However, from January through June 2001 he has not completed homework assignments and his grades have dropped from A's to B's. He has resisted parental efforts to have him do his homework.

23. During the same time period – January through summer 2001 – Logan has developed a tendency to disrespect and talk back to his Mother.

24. Father and Mother generally appropriately discipline Logan in a non-physical manner. Mother, however, has a tendency to be short and angry at times with Logan and infrequently has slapped his head and cursed at him when such actions were not warranted. For the most part these actions by Mother seem to be correlated to Logan's smart mouthing of Mother but on one occasion he was hit in the head and cursed at when he could not find a sibling's coat at Mother's request.

25. Mother has had a relationship of dating and bringing to the home twelve or more different men over the past seven to eight years. Logan is aware some of these men have "stayed overnight"

and that earlier this year Mother was going out with a guy named "Mike." Logan recently reported to his Father that Mother was engaged to Joe Wright. This was the first Father knew of Mr. Wright.

26. At least five of Mother's relationships involved sexual relationships, which varied in length from a month to 1-1/2 years, during which time the men were residents of Mother's home. The residency of these men in Mother's home was frequently an on-again, off-again situation.

27. Mother's relationship with Evan's father ended before Evan's birth in May 1999. There was a failed attempt to revive the relationship after Evan's birth. As this relationship was ending Mother was also involved in another live-in relationship of a two to three-month duration, which she indicated occurred "two years ago."

28. After this two to three-month relationship ended Mother began a relationship with S.B., who lived in St. Mary's, Pennsylvania, about two hours distance from Mother's home; again. Mother testified this started about "two years ago."

29. The relationship with S.B. involved him staying at Mother's home and she (and sometimes her children) going to St. Mary's, mostly on weekends. Mother began to look for a job in St. Mary's.

30. In September 2000 Mother indicated to Logan they were going to be moving to St. Mary's.

31. Mother testified that Logan initially was excited about moving but changed his mind after his next weekend with Father. This is probably true, except the Court believes Logan was not excited

about the move but rather did not voice any specific concern to Mother initially. There was no testimony as to the closeness of the relationship of S.B. with Logan nor Mother's other children.

32. At about this time Logan had reported an incident to Father involving Mother slapping his head.

33. In September 2000, Father returned Logan to his Mother and questioned Mother and Mother acknowledged to Father she had hit him on the head. She got very angry and told Logan, "get out of my fucking sight or I'm going to rip your head off." A nasty scene followed. Father contacted the Children & Youth agency.

34. It may have been at the same time or else at the next visit between Logan and his Father that they discussed Mother moving to St. Mary's. Logan made a decision during that visit that he would rather live with Father than move to St. Marys. Mother had not previously disclosed her moving plans to Father.

35. When Logan was returned to Mother's home he and Father told her of Logan's desire to live with Father.

36. Father did not initially act on Logan's expressed desire but as Mother continued to make arrangements to move he filed a custody petition in October 2000 seeking to prevent her from relocating Logan and also seeking primary custody. Due to the custody issues raised by Father in the petition Mother abandoned her plans to move. Shortly after October 2000, she also broke off her relationship with S.B.



37. At some point after this Mother entered into a relationship with a man named Mike, who spent some evenings at Mother's home.

38. After S.B. Mother also had a relationship with J.G. in the 2000-01 winter, who "wasn't around Logan much" but who had a child in the same class room as Logan. Mother spent some nights at J.G.'s home.

39. Mother started a relationship with Joe Wright to whom she is now engaged in the "late winter or spring of 2001." Mr. Wright is a brother of Mother's best friend but Mother and Mr. Wright did not disclose their relationship to either his or her family until they recently announced their engagement. Their relationship was not a serious one until two months ago. Mother has "no set plans" as to their marriage date and place they will live. Mr. Wright is now unemployed and helps Mother with the babysitting. They have not had sex. Mr. Wright first stayed in her home two weeks ago after he quit his job as an over-the-road truck driver, a job he had held approximately eight months. He hopes to be rehired by a trucking company based in Danville by whom he had been employed for several months as his first truck-driving job before beginning the long distance work. Danville is approximately 1 to 1-1/2 hours from Mother's home. The Danville work does not involve over nights. Mother believes Mr. Wright will become a suitable stepfather to Logan. Mr. Wright did not testify in these proceedings.

40. Logan views Mother's engagement to Mr. Wright as all right but with obvious sarcasm.

41. The sarcasm Logan feels concerning Mr. Wright is genuinely his own and not that which has been improperly implanted in him by any act of Father or stepmother.

42. Logan regularly complains about his Mother's smoking. Other than this he voices few complaints about either parent.

43. Since September 2000, up to the date of trial, Logan has consistently stated to both that he wants to live with his father. He has never wavered.

44. Since the date of the custody stipulation in 1991 there was only one time when Father did not see Logan at the agreed upon time. This was when he was involved in an accident on the way to pick up his son.

### ***III. Discussion.***

Mother and Father have done a good job in cooperatively parenting Logan. It is a shame they could not resolve the present dispute without this litigation. Logan is a bright and mature child. He is bonded equally close to both parents and has close sibling relationships in both homes.

Father summarized his reason for wanting custody of Logan by saying he was before the Court because he has a good relationship with his son and his son has stated for approximately a year that he wants to live with his father. Father also asserts Logan is a mature and intelligent kid who is old enough to understand certain things concerning Mother's involvement with other men, that such is not always appropriate and Logan is suffering the effects of her instability. Father believes he can provide stability and a better environment for Logan to grow up in.

Mother contends that she should remain as the primary physical custodian of Logan because he is functioning very well and she has been his primary caregiver in the past. While she acknowledges certain instabilities exist in her life she states that these have not adversely affected Logan and

that given his very close relationship to his half-brother and half-sister who are Mother's children and who reside with him in her home, that he should remain primarily in her physical care. Mother does recognize that at some point in the future Logan's wish to live with his Father should be granted but asserts that now is not the right time. She argues Logan's wish to be with Father is being prompted and encouraged improperly both by Father giving him incentives, such as a four-wheeler and other such items related to a good life and also by Father discussing with Logan things about Mother's life that would prompt Logan to make statements favoring living with Father as opposed to living with Mother.

The Court believes the assertions of Father are correct and that given Logan's persistence in voicing his desire to live with Father a change in the provisions relating to custody whereby Logan would live for the most part in Father's home during the school year is in Logan's best interest.

It is true that Mother has been the primary caregiver to Logan through this point in his life. However, over the last ten years Father has been regularly and deeply involved in Logan's life. Logan is equally at home in both households and is equally bonded to members of both households. The Court believes, in fact, that Logan's bond to his Mother is such that he avoided making certain criticisms of her of which he is aware could be made and which he knows would have promoted his desire to live with Father. This in many ways convinces the Court that Logan is not being improperly influenced by his Father.

Mother contends that Father has influenced Logan by offering him a "Disneyland" type of life. While there are certain material benefits Logan may enjoy from being in Father's home they are not so sharply different that the things available to him at Mother's home and in fact he enjoys material things and friends he has at Mother's home. In this regard Mother points out that Logan's first preference of what he

likes to do for enjoyment is to play with his friends at Mother's home. This is not unusual, particularly given the fact that Mother's home is his primary place of residence at this time. When all of Logan's likes and dislikes as to activities are considered it is clear he is happy in both homes and genuinely enjoys being in both places. There is no question that Father offers Logan some attractive things, but many of these such as hunting and fishing with Father and 4-Wheeling are natural and to be expected. These are not acts of attempting to bribe Logan's feelings as to custody

Mother also says Father in his conversations with Logan has improperly caused him to express a desire to live with Mother rather than with Father. Mother acknowledged in her testimony that there would be some point that Logan's closeness to his Father would make it appropriate for him to go and live with Father but asserts that now is not the time because Logan is now too young and his reasons are not his own. This Court believes that Mother has sorely the extent and depth of Logan's feelings. While Logan's feelings might seem a little mature or adult-like for a typical 10-year old all parties have argued and conceded that Logan is bright and mature. Logan genuinely did not want to move to St. Marys and came to this realization once he had a chance to discuss it with his Father. Surely, his Father pointed out things that would be different if he moved to St. Marys. Nevertheless, the Court believes Logan came to his own conclusion, which was not inappropriate, that he would rather live in Father's home primarily than to move to St. Marys. Logan has the ability and no doubt does recognize Father shows a different attitude toward him compared to his Mother making an initial determination to move without considering his true feelings. At that time, and to this day, Logan was happy in his Father's home and there would have been many valid reasons for him to make that decision. Logan's desire not to move, given his age and

maturity at that time (September 2000 and entering 5<sup>th</sup> grade) in and of itself would not have been sufficient to prevent Mother from having made the move, but there certainly were other obvious reasons that Mother's move was inappropriate and almost whimsical. She rightly changed her intentions about moving when confronted with Father's willingness to go to court to prevent her from doing the move. Father's initiative in this regard indicates Father's dedication to Logan, as well by his consistent exercise of his custody rights throughout Logan's lifetime.

In addition to this, Mother also misses other obvious signs that Logan's continued residence in her home, as the primary caregiver is not in his best interest. This is demonstrated by can best be reflected in the outright disobedience Logan has shown in failing to complete homework assignments during the last school year. Mother has acknowledged that Logan has also been particularly disrespectful during the last several months. This disrespect was also noted by other of Mother's witnesses. This is in sharp contrast to other testimony that indicates Logan is typically a well-mannered bright boy who needs little discipline. This Court has no doubt that Mother has exercised some physical discipline on Logan and Mother admits to spanking him at times. The Court does not take issue with these spankings. They very well may have been appropriate forms of discipline. At the same time, however, the Court is convinced that Mother has angrily used strong and vulgar language and used physical slapping in disciplining Logan, which has not always been well intentioned nor appropriate. Logan has felt adverse effects from this. The logical significant adverse effect is that Logan, consciously or unconsciously, would feel Mother lacks respect for him and his feelings is starting to rebel against Mother. Logan has often complained about Mother's smoking. Her smoking is not a basis for entering a change of custody. It also indicates to Logan that

Mother has little respect for his concerns, adding to Logan's sarcasm and disrespect toward Mother. This growing sarcasm and disrespect is also demonstrated by an item described by his stepmother, Tina, which this Court believes was accurately described.

Tina described an incident after they returned home from vacation in July 2001. Tina reminded Logan to call his Mother. After he did not do this Tina reminded him again. Logan said he did not want to call because he would have to tell her that he "loved her and missed her." He did not want to tell her that, but she would get made if he did not. Logan does love his Mother but feels this type of conduct by her shows he feels a frustration in their relationship.

The Court believes that Logan's disrespect and attitude toward Mother is but an indication of the beginning of what could very well make Logan into a rebellious teenager if he continues to primarily reside with Mother when he expresses such a strong desire to live with his Father. In addition to his expressing a strong desire to live primarily with Father, and one which he has been persistent in for a full year and which he has no hesitancy in expressing to Mother, the Court believes that inserting stability in Logan's life and getting him back to being an appropriate and respectful teenager requires him to primarily be in Father's custody is the primary concern for Logan's best interest. Father will certainly assure that Mother has appropriate and regular times of custody of Logan. In fact, both parties have been unusually cooperative in sharing custody times and seeing that custody arrangements are followed.

Finally, the Court must comment upon the effect that Mother's unstable relationships with many men during the last several years have had upon Logan. It also no doubt adds greatly to his

disrespect and sarcasm towards Mother. These unstable relationships have made Logan genuinely sarcastic concerning her intentions to marry Joe Wright.

Mother is unrealistic when she does not believe that her sporadic relationships with many men, which are in-and-out last several months-to-one-year and following one upon the other with little, if any, time interval between sexually intimate relationships, have not started to have an effect upon Logan. One example of this unrealistic approach of Mother is her relationship with J.G. whom she broke off with before becoming involved with Mr. Wright to whom she is now engaged. She basically acknowledged that she and J.G. had a sexually-intimate relationship and that she would spend nights in J.G.'s home, but asserted this did not impact Logan because he would be unaware of it. Yet J.G. has a child in Logan's classroom. The children are old enough to understand and appreciate the associations that their parents have, particularly when they are mature and bright like Logan. The Court cannot believe there is not some discussion between Logan and his classmate concerning their parents' involvement and/or discussion of the same among their classmates. At the same time it appears that Mother's relationship with J.G. coincided with the startup and ending of a relationship with Mike, no doubt a neighbor, and with Mr. Wright, who is now her fiancé. Mother has decided to marry Mr. Wright, but Logan was unable to voice any close friendship or even acquaintanceship with Joe Wright. Mother did not seem particularly enthused about the qualities of Joe Wright as a father. In fact, Mother presented no testimony concerning these qualities nor did she bring in her Mr. Wright to testify to the Court as to his view of being a stepfather to Logan and Mother's other children.

In fact, this Court shares Logan's sarcasm concerning the relationship of Mother with Mr. Wright as there is no immediate sign that Mother and Mr. Wright are going to have a stable relationship or provide a stable environment for Logan. Mr. Wright has held two jobs recently as a truck driver. Mr. Wright is hopeful of getting his job back driving truck in Danville, over an hour away from Mother's current home. Are they going to move to Danville to facilitate his work and the building of a family relationship and family home or is Mr. Wright going to commute and move into Mother's current home? Mother has testified that they "have no set plans."

The Court believes Logan needs some set plans. His Father's home offers stability and appropriate discipline. Logan certainly should and must have a continued relationship with Mother and his half-brother and half-sister who are her children. The parties live close enough that it is easy to accommodate the continuing of that relationship in a shared custody arrangement that essentially would reverse the current situation, with the exception that the parties, in argument before this Court, have essentially agreed to the equal sharing of Logan's physical custody during the summer.

#### ***IV. Conclusions of Law.***

1. Although the role of parent as a primary caretaker is a substantial factor to be weighed in adjudicating custody, it is appropriate to award primary custody to the other parent who has spent a substantial amount of time with the child and provided the child with love, care and devotion.

***Brooks v. Brooks***, 466 A.2d 152 (Pa. Super. 1983).

2. A child's preference is to be given consideration by the trial court and the trial court shall give such weight to that preference as it deems appropriate based upon the child's age, maturity,



intelligence and reasons. *McMillan v. McMillan*, 602 A.2d 845 (Pa. 1992); *Kozlowski v. Kozlowski*, 524 A.2d 524 1995 (Pa. Super 1987). A child's preference is a factor to be considered as long as it is based on good reasons and the child's maturity and intelligence must also be considered. *Swope v. Swope*, 689 A.2d 264, 265 (Pa. Super. 1997).

3. A parent's paramour or fiancé, or a person(s) living with them in a meretricious relationship, is a person whom the court may take into consideration as would relate to the person's supervision, values and relationship with a child including matters of discipline and other general acts in a quasi-parental role and where doubt exists concerning such qualities and traits it is appropriate to withhold the awarding of custody to such parent. *Haller v. Haller*, 547 A.2d 393 (Pa. Super. 1998).

4. A parent's conduct in the past, including sexual relationships with a number of different individuals may be relevant in assessing the award of custody if the behavior is such as to have had an impact on the child and maybe likely to have an impact on the child in the future. A parent's stability is an appropriate factor to consider in determining the award of custody. It is appropriate for the court to consider the steadiness, duration, transient nature and familial nature of a parent's relationships with paramours.

5. The paramount concern in a child custody case is the best interests of the children, based upon a consideration of all factors that legitimately affect the children's physical, intellectual, moral and spiritual well being. *Swope v. Swope*, 689 A.2d 264, 265 (Pa. Super. 1997).

Accordingly, the Court will enter an order of custody in accordance with the above findings and discussion.

BY THE COURT,

William S. Kieser, Judge

cc: Richard A. Gahr, Esquire  
Randi W. Dincher, Esquire  
Family Court  
Suzanne R. Lovecchio (Law Clerk)  
Gary L. Weber, Esquire (Lycoming Reporter)

RICHARD W. ZINCK,

Plaintiff

vs.

JENNIFER BISER,

Defendant

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

: CIVIL ACTION - LAW  
: NO. 91-21,200

:  
:  
:

: CUSTODY/VISITATION

*Date: September 20, 2001*

**CUSTODY/VISITATION ORDER**

This Custody Order is entered in accordance with the Adjudication, Findings and Discussion of the same date.

1. **Legal Custody.** The parents, JENNIFER BISER (hereinafter referred to as "Mother") and RICHARD W. ZINCK (hereinafter referred to as "Father") shall *share legal custody* of their child (hereinafter referred to as "Child") LOGAN ZINCK, date of birth January 10, 1991.

2. **Physical Custody. Father and Mother** , shall share *primary physical custody* of the Child, as follows:

a. **During the School Year.** Father shall have custody except Mother shall have custody on: 1) alternating weekends from Friday after school until Sunday at 8:00 p.m.; 2) one day every week from after school until 8:00 p.m. on a day of the week to be agreed upon by the parents from time to time, but in the absence of an agreement the day shall be Wednesday.

(1) **During the Summer School Vacation.** The parents shall *share physical custody* on a week-to-week basis. The parent who has custody for the first weekend following

the end of the school year shall continue in physical custody for the following week, until the next Sunday at 8:00 p.m., at which time physical custody shall shift to the other parent. Thereafter, physical custody shall be exchanged each Sunday at 8:00 p.m.

3. **Holiday Physical Custody**. On the following holidays physical custody of the Child shall be shared between the parents as indicated:

<i>Holiday</i>	<i>2002 and Even Years Thereafter</i>	<i>2001 and Odd Years Thereafter</i>	<i>Time for Exercise of Custody On the Holiday by the Parent Having Custody</i>
New Year's Day	Mother	Father	From the day before (December 31st) at noon until January 1st at 7:00 p.m., unless there is no school the following day, January 2nd; if there is no school on January 2nd, custody shall end at noon on January 2nd.
Easter	Father	Mother	From Good Friday at noon until 3:00 p.m. Easter Day
Memorial Day	Mother	Father	From noon the Friday before until 7:30 p.m. on Memorial Day
July 4th	Father	Mother	From noon July 3rd through 9:00 a.m. July 5th, which shall have preference over work vacation time or other summer custody of the other parent.
Labor Day	Mother	Father	From noon on the Friday before until 7:30 p.m. Labor Day
Thanksgiving	Father	Mother	From 5:00 p.m., or the ending of school on the Wednesday before Thanksgiving until noon on the Saturday following Thanksgiving.
Christmas	Father  Mother	Mother  Father	From December 25th at 3:00 p.m. to 5:00 p.m. on December 28 <sup>th</sup> From 5:00 p.m. December 23 <sup>rd</sup> to 3:00 p.m. on December 25 <sup>th</sup> . From 5:00 p.m. on December 28 <sup>th</sup> to noon on December 31st.
			From the Saturday before Mother's Day at

Mother's Day	Mother	Mother	noon through 7:30 p.m. on Mother's Day
Father's Day	Father	Father	From the Saturday before Father's Day at noon through 7:30 p.m. on Father's Day

The foregoing shall have preference over regular scheduled custody under paragraph #2, above, without any make-up time of custody being given if a parent's usual time of custody is displaced by the Holiday Schedule. The parents are encouraged to modify this schedule by agreement from time to time to fit their mutually desired times which best accommodate family events and their respective work schedules.

4. **Transportation in Exchange of Physical Custody.** Transportation of the Child for purposes of exchange of physical custody shall be divided between the parties as they agree and the point of exchange of the Child for physical custody purposes shall be at a location as the parties may agree from time to time.

Absent agreement the physical custody of the Child shall be exchanged at the designated times at the home of the parent who is to receive custody by the other parent delivering the Child to that home.

5. **Extensions of Times of Partial Physical Custody.** In the event that any period of a parent's physical custody is scheduled to end on a specific day which would be followed by the same parent beginning another time of physical custody on the immediately following day, the ending time of the physical custody shall be extended through an overnight period of time so as to extend into the following day and not interrupt such parent's period of time of physical custody.

6. **Telephone Contact**. Each parent shall have reasonable telephone contact with the Child when they are in the physical custody of the other parent. It is also specifically DIRECTED that the parent who does not have physical custody of the Child on a particular Sunday or Holiday shall have access to the Child by telephone for a period not to exceed a total of 15 minutes on each Sunday and Holiday evening at 8:00 p.m., except this provision shall not apply if the parent has actually enjoyed a physical custody on that particular day; if the time of 8:00 p.m. is not suitable to accommodate the plans of the in-custody parent for the Child an alternate time acceptable to the calling parent shall be agreed upon. The parent placing the telephone call shall pay for any telephone tolls involved.

7. **Obligations of Shared Legal Custody**. All decisions affecting the Child's best interests, including, but not limited to, medical and dental treatment, religious, education, day care, and similar other social/community activities shall be considered major decisions. The parents shall consult with each other with a view towards obtaining and following a harmonious policy in jointly making such decisions in the Child's best interests.

Each parent shall keep the other informed of the progress of the Child's health, education, religious and social matters of significance. Neither parent shall impair the other parent's right to shared legal custody of the child. Each parent shall give support to the other in the role as parent and to take into account the wishes of the other for the well being of the Child.

With regard to any emergency decisions which must be made, the parent with whom the Child is in physical custody at the time shall be permitted to make the decision necessitated by the

emergency without consulting the other parent in advance; however, that parent shall inform the other of the emergency and consult with the other parent as soon as possible.

Day-to-day decisions of a routine nature will be the responsibility of the parent having physical custody at that time.

Each parent shall be entitled to complete and full information from any hospital, doctor, dentist, psychiatrist, psychologist or medical care provider, any education or religious institution, teacher or other person, entity or authority having information about or authority over the Child, including the right to examine any documents concerning the Child or to receive copies of files or reports concerning the Child which any parent may have the right to examine or receive. Such documents include, but are not limited to, medical records, psychiatric records, academic records, school report cards, birth certificates or other governmental records.

Both parents may and are encouraged to attend school conferences and other activities of the Child and shall be listed with the school as the parent to be contacted in the event of an emergency and to be notified regarding school events.

It will be the responsibility of a parent with physical custody to provide the other parent with copies of report cards and all notifications of school conferences and events or other activities involving or concerning the Child or parental participation therein.

Neither parent shall schedule activities or appointments for the Child which would require the Child's attendance or participation at said activity or appointment during a time when the Child is scheduled to be in the physical custody of the other parent, without that parent's express prior approval.

8. **General Parental Obligations.** Each party shall make reasonable efforts to adjust their work schedules to provide them the maximum time possible with the Child during their time of physical custody.

The parents shall endeavor to avoid the use of day care and other child care facilities but instead utilize grandparents, the other parent and other relatives for purposes of providing child care when they are necessarily absent for work or other purposes during a time they are in physical custody of the Child. The parents shall provide each other with the names, addresses and phone numbers of the child care provider each intends to use and reasonable notice in advance as to when a Child will be receiving such care. Where a third-party child care provider, particularly a public or semi-public facility is used, the parties shall consult as to the appropriate facility and shall choose one that is mutually convenient to the needs of each parent as would relate to the parent delivering or picking up the child from such facility.

While in the presence of the Child, neither parent shall make, or permit any other person to make, any remarks nor do anything which could in any way be construed as derogatory or uncomplimentary to the other parent. It shall be the express duty of each parent to uphold the other parent as one whom the Child should respect and love.

It shall be the obligation of each parent to make the Child available to the other in accordance with the physical custody schedule and to encourage and cause the Child to participate in the plan hereby ordered.

Each parent shall have the duty to notify the other of any event or activity that could reasonably be expected to be of significant concern to the other parent.



The parents shall communicate directly with one another concerning any parenting issue requiring consultation and agreement and regarding any proposed modifications to the physical custody schedule which may, from time to time, become necessary and shall specifically not use the Child as a messenger. Furthermore, neither parent shall discuss with the Child any proposed changes to the physical custody schedule or any other issue requiring consultation and agreement between the parents prior to discussing the matter with the other parent and making a good faith effort to reaching an agreement.

Both parents shall be cooperative with each other in all communications and shall encourage ongoing contact between the Child and the other parent. Each parent will provide the other parent with the location and phone number of their respective residences and in the event that during the period of having physical custody a parent plans to be away from that residence over night reasonable notice thereof shall be given to the other parent including a manner of contacting in the event of emergencies.

Neither parent shall abuse alcohol or drugs while in actual physical custody of the Child. Neither parent shall now allow the use of alcohol or drugs to impair their judgment or ability to perform parental functions.

11. **Summer Vacation Responsibilities.** The parties will endeavor to arrange for their summer work vacations to occur during the time in which they are entitled to actual physical custody; however, the Court directs that where this is not possible the parties shall cooperate in arranging a mutually acceptable schedule to accommodate the vacation planning of the respective parents, with the intent being that the Child's time shall be in the physical custody of a parent during the parent's summer work vacation

and also that the time spent by the child with each parent during the summer be divided as equally as may be practicable.

BY THE COURT,

William S. Kieser

cc: Richard A. Gahr, Esquire  
Randy W. Dincher, Esquire  
Family Court