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DAUPHIN COUNTY
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MAR 06 2018
I hereby certify that the foregoing is a
true and correct copy of the original
filed.
Matthew R. Krupp
Prothonotary

LINDA and DAVID BRUMFIELD,
Plaintiffs

v.

JAMIE BRUMFIELD CAMPBELL
And LE'ANDRE MANGUS,
Defendants

:IN THE COURT OF COMMON PLEAS
:DAUPHIN COUNTY PENNSYLVANIA
:
:NO. 2017 CV 07176-CU
:
:
:CIVIL ACTION – CUSTODY
:

MEMORANDUM OPINION

PROCEDURAL HISTORY

The instant matter was initiated on October 11, 2017 by the filing of both a Complaint for Custody and an Emergency Petition for Special Relief by Plaintiffs, Linda and David Brumfield (hereinafter "Maternal Grandparents") naming Defendants Jamie Brumfield-Campbell (hereinafter "Mother") and Le'Andre Mangus (hereinafter "Father") and seeking sole legal and primary physical custody of Asa Brumfield, born November 2010 (hereinafter "the Child"). On October 12, 2017, an order was entered scheduling a Custody Conference for November 15, 2017 before Jennifer Lehman and ordering all the parties to attend a four-hour educational parenting seminar and submit a Criminal/ Abuse History Verification. On October 13, Judge William T. Tully, entered and Order granting the Maternal Grandparents legal and physical custody pending further Order of Court. Plaintiffs attended the seminar on October 28, 2017 but neither Defendant has attended.

Father and Maternal Grandparents appeared at the Custody Conference, but Mother failed to appear. No agreement was reached at the conference and on December 11, 2017 a Pre-Trial Conference was scheduled before this Court for January 19, 2018. All parties were ordered to file Pre-Trial Statements, a Proposed Parenting Plan and Updated Criminal Record/Abuse History Verifications five days prior to the January 19, 2018 Pre-Trial Conference. Only the Plaintiffs filed these documents. All parties attended the Pre-Trial Conference and no agreement was reached.

On January 22, 2018, this Court entered an Scheduling Order setting a trial date of February 26, 2018. This Scheduling Order further required both Mother and Father to attend the educational parenting seminar, provide updated Pre-Trial Statements, provide updated Criminal Record/Abuse History Verifications, required Father to undergo a risk of harm and drug and alcohol evaluation and Mother to comply with her prior order of December 21, 2017, to undergo a psychological evaluation¹.

CUSTODY HEARING

All parties appeared for the hearing but none had filed the updated documents as ordered and neither Mother nor Father had attended the seminar nor completed their respective evaluations that were court ordered. Mother and Father were self-represented and the Maternal Grandparents were represented by Attorney Robert Sakovich. We also heard testimony from Maternal Uncle, Mother's husband and the child's play therapist.

The Maternal Grandparents reside in Berrysburg, where the child had resided since October of 2017. Mother lives by herself in Bedford and Father lives alone in

¹ See Judge Turgeon Order for evaluation of December 21, 2017; docket number 2017-CV-7715-CU

Harrisburg. The Maternal Grandparents have primary physical and sole legal custody and Father has supervised visits at the YWCA in Harrisburg. While Mother's time with the Child is not addressed in an order, she has had limited supervised visits with the Child in the presence of the Maternal Grandparents.

Father is requesting partial custody of the Child but failed to request any specific schedule. Mother is requesting that the Child be permitted to reside with her. The Maternal Grandparents are concerned for the Child's safety should he have any unsupervised time with either parent. None of the parties testified as to any details as to what custody arrangements they believe would be in the best interest of the Child.

The Child's play therapist testified that she began to see the Child once a week in December of 2017 through a referral from the school guidance counselor and the Child's teacher. She testified that the Child views Uncle Jeremy favorably, states that Mommy is sad sometimes and that he was afraid of his Father. She stated she does not ask questions of the Child but responds to what he tells her. She made it quite clear that the Child plays and she observes.

Maternal Grandfather testified that he is gainfully employed and lives with his wife and the Child. He spoke of his concerns about Mother's mental health and her ability to adequately care for the Child. He stated she had been a good Mother but had concerns about her driving with the children given her current mental state. He expressed concerns over Father's criminal and abuse history. He was also concerned about the Child's lack of familiarity with Father given that he believed Father met the Child in 2016 and that the Child had only seen Father five (5) times since the custody action had begun in 2017. Maternal Grandfather also testified as to all the parental duties and activities he engages

in with the Child, but admitted the Child is not currently involved in any extracurricular activities other than weekly attendance at AWANA (a youth church activity). Maternal Grandfather provided no testimony as to what custody schedule he believed would be in the best interest of the Child, or what he would do to insure the Child had a loving relationship with Mother or Father.

Maternal Uncle testified to his involvement with the child from the time the Child was born. He testified that he spent regular time with the Child each week and many times for the weekend. He spoke of Mother's drug and alcohol issues and his role in helping her over the years. He testified that up until Mother accused him of abusing the Child, the Child did sleep with him at times, he kissed the Child on the lips and helped him to wash his hair when the Child was bathing, but that all of this ceased when Mother accused him of sexual abuse of the Child.

Mother's estranged husband testified as to his concerns over Mother's mental health and her ability to care for their two children as well as the Child in this matter. He testified in detail as to what occurred around the time Mother was involuntarily committed. Mother has supervised visitation with their twins pursuant to a court order.²

Maternal Grandmother testified that she is a fifth grade school teacher. She explained that if she or Maternal Grandfather cannot be available for the Child before or after school, their daughter Rachel, who lives nearby, provides care for the Child. She spoke of her involvement with the Child from the time he was born. She detailed her more recent involvement with the Child as to his schooling and day-to-day care. She states she has made efforts for Mother to stay in contact with the Child but she has not

² See Judge Turgeon Order for custody of December 21, 2017; docket number 2017-CV-7715-CU

done so for Father because Father is intimidating and it upsets the Child. She added that contact with Mother is not going well as Mother discusses inappropriate topics with the Child and calls close to bedtime. She was also concerned about Mother's stability as she has lived four different places in 2017, along with being institutionalized for two weeks pursuant to Section 302 of 50 P.S. §7302. Maternal Grandmother did testify that she would be in favor of reunification counseling for Father and the Child and she has concerns as to Father alienating the Child from Mother's family. Her testimony was vague as to how often Father had seen the Child prior to the court action. She added that she never thought she and her husband would be raising the Child and that if Mother would get sufficient treatment she would be okay to have custody and that if Father was proven not to be a risk to the Child, he could have more custody. Maternal Grandmother also testified that she was making sure the Child got to see his half-siblings (Mother's twins to her husband) but that Mother now forbids this to occur.

Mother testified in the narrative but had difficulty focusing on matters concerning the Child. Mother attempted to address issue about alleged sex-trafficking and abuse of her children but had no specifics, evidence or witnesses. She testified that she was living in Bedford in a two-bedroom apartment with her dog. She stated she would like to take the Child to Bedford to live with her and get him away from her family. She said she would put him in school and be available for him when he was not in school. She testified that she is starting a non-profit but needs money from her Father for living expenses. On cross, counsel for the Maternal Grandparents asked Mother about her DUI, drug and public drunkenness charges and provided her Criminal Docket sheet. Mother further

testified that Father had been seeing the Child for two years and that she saw nothing wrong with Father's parenting.

Father testified in the narrative that he has lived in his current home in Harrisburg for ten years, where he has three bedrooms and before that lived on Lincoln Street in Steelton for twenty-eight years. He stated that he has three other children, ages 10, 8 and 3, that he sees regularly, but that he does live alone. He added that these children are honor students at East Pennsboro. He said that he is gainfully employed and owns JM's Concession and Catering and has a food truck. He added that he has clearances to be around children as he coaches football and basketball, as well as, running concession stands at swimming pools and community events. Father testified that he is neither an alcoholic nor a drug user and when cross-examined about his criminal record it was revealed that he was charged with delivery and possession, not use. Additionally, his criminal record shows criminal docket entries from 2002 through 2015, none of which involve children. When questioned about the multiple Protection from Abuse Orders wherein he was the defendant he testified that they were all frivolous and that he could not even answer as to how many were filed. Father testified that he first met the Child in 2016, by coincidence in a grocery at which time Mother announced that he was the Child's Father. After that, Father stated that he saw him four to five times a week until the Maternal Uncle took the Child away when Mother's mental health issues began, rather than allow the Child to be with his Father. He added that he had participated in dental and medical appointments and took the Child to football practices, to work with him and got him involved in wrestling. Father testified that he calls the Child but that the Maternal Grandparents supervise the calls.

DISCUSSION

The matter before this Court is Maternal Grandparent's Complaint for Custody filed October 11, 2017, wherein they are seeking sole legal and primary physical custody with supervised visitation for both parents. This Court heard testimony from the parties and their witnesses and we have weighed the evidence considering the presumptions concerning primary physical custody and the burdens that apply to each of the parties pursuant to 23 Pa. C.S.A. § 5327 (a) – (b).

Pursuant to the Child Custody Act, found at 23 Pa. C.S. § 5328 (a) and affirmed by case law, "All of the factors listed in section 5328(a) are required to be considered by the trial court when entering a custody order." **A.V. v. S.T.**, 87 A.3d 818,822 (PA. Super. 2014); citing **J.R.M. v. J.E.A.**, 33 A.3d 647,652 (PA. Super. 2011).

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 indicated that Maternal Grandparents and Mother have encouraged regular contact with the child for each other throughout the Child's life with the Maternal Grandparents even taking the child to Bedford to visit Mother for Christmas. Mother and Father and Mother testified that Mother encouraged frequent and regular contact between Father and the Child for close to eighteen months until the Maternal Grandparents obtained primary physical custody in October of 2017.

While Father failed to testify as to what he would do to encourage the Child to have a relationship with the other parties, Maternal Grandmother did testify that once Father was

proven to not be a risk to the Child, she would be okay with Father having custody. Maternal Grandmother, however, did testify that she had limited the telephone contact between the Child and his parents in order to protect the Child from her perceived problems they created for the Child.

Mother testified that she wanted the Child kept away from her parents as she believed they were abusing the Child, but Maternal Grandmother stated that if Mother received adequate treatment, she could resume custody of the Child.

It is of note that all the parties and the child had a dinner meeting for which no one had a negative thing to say.

- 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.*

Maternal Grandparents allege that Father is a risk of harm to the Child because of his criminal and Protection from Abuse records, none of which involved children. They also believe that Mother is a risk of harm to the Child due to her mental health concerns. Mother testified that she believed her family was sexually abusing the Child but provided no evidence to support her concerns. Father testified that he believed the Maternal Uncle's activities with the Child were inappropriate. No one produced any record of any Children and Youth involvement regarding the Child.

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

Testimony presented indicated that Mother cared for the Child for most of his life with support from her parents, Maternal Uncle, her husband and, later, Father, until her mental health issues arose in the fall of 2017. Several parties testified that Maternal Uncle and Maternal Grandmother helped Mother when the Child was first born with a multitude of parental duties. Mother's husband assisted her during their marriage. Mother and Father both testified that, once introduced to the Child in 2016, Father assisted Mother in caring for the Child and attending medical and dental appointments. From October 2017 forward, Maternal Grandparents had performed the majority of the parental duties as necessitated by the Court Order they sought through their Emergency Petition for Special Relief.

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

Both Maternal Grandparents and Father testified to their stability in residences and employment but Mother has moved four times in a year and was not gainfully employed, continuing to require financial assistance from her parents. Testimony presented the fact that, to his detriment, in his seven years, the Child has called three people "Dad" – Mother's husband, his Maternal Grandfather and Father, but that presently it is only his Father that he refers to as "Dad".

Testimony of witnesses adduced that the Child is more familiar with the Brumfield family, although Maternal Grandparents failed to acknowledge the regular interaction the Child

had with Father for close to eighteen months. Father did testify that in his three to five weekly visits with the Child, the Child was introduced to his family.

The testimony of the witnesses established that Maternal Grandparents has the Child enrolled in AWANA, but the Child has missed out on the sports to which Father had introduced to him, since the Maternal Grandparents secured primary physical custody and sole legal custody in October of 2017.

The Maternal Grandparents testified that they moved the Child to a new school when they secured primary physical custody and that the Child is doing well in school, except that he has required play therapy at the suggestion of his teacher.

5. The availability of extended family.

All parties testified to their extended families and the Child's interaction with their families.

6. The children's sibling relationships.

The Child has three half-siblings through his Father and two-half siblings through Mother.

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

While the Maternal Grandparents made the Child available to speak with the Court, Father objected to the Court speaking with the Child as he testified he believed the

Maternal Grandparents may have brainwashed the Child. Therefore, the Court did not speak with the Child.

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.*

Father testified that he believed the Maternal Grandparents were responsible for the Child allegedly stating he was in fear of Father but there was little other testimony about any party directly trying to influence the Child to have ill-feelings for another one of the parties.

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 presence of all parties at the hearing and their testimony about their involvement and care for the Child, is indicative of their wanting to adequately care for the Child. The testimony of several witnesses and Mother's demeanor in the courtroom indicates that she is not presently able to adequately provide for the Child, but, as Maternal Grandmother testified, with the appropriate treatment, she could be able to resume caring for the Child. Father testified that he had established a nurturing and loving relationship with the Child and was able to provide that continued relationship if allowed to do so. Maternal Grandparents testified that they also could provide the Child with a loving and stable relationship and that they were willing to do so.

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

Upon review of the testimony of all parties, while Maternal Grandparents are best suited to provide the needs addressed in this factor at this time, Father may also be in a position to do so, but he offered no testimony as to his work schedule or details regarding his ability to address the Child's daily needs and he failed to schedule his court ordered risk assessment evaluation before the hearing. However, Father did testify that he had an appointment scheduled for early April. Testimony by Mother, her parents, her husband and her brother indicate that Mother is not presently able to provide for the needs of the Child, but could be with adequate, ongoing mental health treatment. Additionally, Mother also failed to schedule the court ordered evaluation.

11. The proximity of the residences of the parties.

Mother currently lives in Bedford, Pennsylvania which is a two-hour drive to Maternal Grandparents and Father resides in Harrisburg, which is approximately forty-five (45) minutes away from the Maternal Grandparents.

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

Maternal Grandparents testified that the Child's maternal aunt is available to care for the Child in the event they are not able to be with him when he is not in school. Mother testified that she would be available for the Child when he was not in school, if he were to live with her in Bedford. Father failed to offer any testimony regarding his availability to care for the child or make child-care arrangements.

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.

While the level of animosity among the parties was elevated during the hearing, there was testimony that all parties had a pleasant dinner together with the Child shortly before the hearing. As stated earlier, Maternal Grandmother did testify to both parents gaining custodial time if their evaluations were favorable.

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's drug and alcohol abuse and testimony about concerns for Father's contacts with illegal drugs and prior Protection from Abuse Orders.,

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

There was significant testimony about Mother's mental health and her involuntary commitment in October of 2017, which included two weeks of in-patient treatment. Maternal Grandparents and Mother's husband testified about their ongoing concerns for Mother's mental health.

16. Any other relevant factors.

Testimony indicated that any change in primary custody would require that the Child change schools for the second time this school year.

None of the parties provided evidence as to the suitability of their home.

Neither Mother nor Father provided any evidence that they had attended the seminar that they were first ordered to attend in October of 2017.

Neither Mother nor Father provided adequate testimony to support their inability to have had their court ordered evaluations completed in time for the hearing.

CONCLUSION

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

(This space intentionally left blank.)

LINDA and DAVID BRUMFIELD,
Plaintiffs

v.

JAMIE BRUMFIELD CAMPBELL
and LE'ANDRE MANGUS ,
Defendants

:IN THE COURT OF COMMON PLEAS
:DAUPHIN COUNTY PENNSYLVANIA

:
:NO. 2017 CV 07176-CU
:
:

:CIVIL ACTION – CUSTODY
:

ORDER OF COURT

AND NOW, this 6th 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 Asa Brumfield born November 2010, (hereinafter "the Child") as follows

LEGAL CUSTODY

1. Plaintiffs, Linda and David Brumfield (hereinafter referred to as "Maternal Grandparents") shall have sole legal custody of the Child. Maternal Grandparents shall make all major legal decisions concerning the Child, including but not limited to, the Child's health, medical, dental, mental health, education and religious training.
2. Maternal Grandparents shall provide to Jamie Brumfield Campbell (hereinafter referred to as "Mother") and to Le'Andre Mangus (hereinafter referred to a "Father")

the following once each parent has provided the Maternal Grandparents with current electronic email addresses and current physical, mailing addresses:

- a. Information regarding all medical and dental appointments before and after each such appointments along with answering any questions about these appointments.
- b. Copies of all progress, correspondence and report cards from the Child's school along with answering any questions about these documents.
- c. Information regarding the Child's interactions with his play therapist or other counselor or mental health professional along with answering any questions about this information.

PHYSICAL CUSTODY

3. Maternal Grandparents shall have primary physical custody of the Child.
4. Father shall have periods of partial physical custody on the first, second and fourth Saturday of every month from 8:00 am until 8:00 pm. Maternal Grandparents and Father shall meet at Sheetz, 3625 Peters Mountain Road, Halifax, Pennsylvania for these custody exchanges. Additionally, Father shall have partial custody on holidays as designated herein.
5. Mother shall have supervised visits as mutually agreed upon with the Maternal Grandparents. Either one of the Maternal Grandparents may supervise these visits but in no time, shall Mother's time with the Child be unsupervised pending further Order of Court.

HOLIDAYS

6. Father shall have partial custody of the Child on the following holidays:
 - a. Father's Day from noon until 8:00 pm.
 - b. Memorial Day in odd-numbered years from 8:00 am until 8:00 pm.
 - c. Fourth of July in even-numbered years from 8:00 am until 8:00 pm.
 - d. Labor Day in odd-numbered years from 8:00 am until 8:00 pm.
 - e. Thanksgiving in even-numbered years from 8:00 am until 8:00 pm.
 - f. Friday after Thanksgiving in odd-numbered years from 8:00 am until 8:00 pm.
 - g. December 24 in even-numbered years from 8:00 am until 8:00 pm.
 - h. December 25 in odd-numbered years from 8:00 am until 8:00 pm.

Exchanges for these holiday periods of partial physical custody shall be at Sheetz, 3625 Peters Mountain Road, Halifax, Pennsylvania.

EXTRACURRICULAR ACTIVITIES

7. Father may enroll the Child in one sport activity each season and Father shall pay for all expenses required for these sports, including but not limited to registration fees and equipment costs. Maternal Grandparents will make every reasonable effort to insure the Child attends the practices and games related to the sporting event Father selects. Father will make every effort to select a sport that is in the area where the child resides to insure the Child is readily able to participate without spending time commuting to attend.

8. The parties shall organize ways for the Child to maintain his friendships, activities and other interests regardless of which party has physical custody.
9. **During the times that any party has physical custody of the Child, each party shall make certain that the Child attends his scheduled activities and they shall transport the Child on time, to and from said activities.**

COMMUNICATION WITH THE CHILD

10. Father shall be permitted to contact the Child a minimum of two (2) times each week, either by telephone, Facetime, Marco Polo or similar media. Such contact shall be made prior to 7:00 pm, last no longer than fifteen (15) minutes and shall not be supervised by the Maternal Grandparents.
11. Mother shall be permitted to contact the Child a minimum of two (2) times each week, either by telephone, Facetime, Marco Polo or similar media. Such contact shall be made prior to 7:00 pm, last no longer than fifteen (15) minutes and shall not be supervised by the Maternal Grandparents.
12. No party shall cause any photographic images of the Child to be posted on any form of social media and each party shall insure, to the best of their abilities, that their friends and relatives post no photographic images of the Child on any social media.

GENERAL CONDUCT

13. During any period of custody or visitation, the parties shall **not** possess or use **controlled substances** or consume alcoholic beverages to the point of

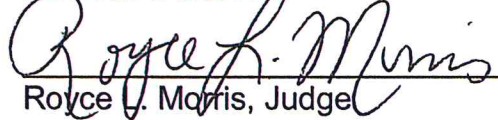
- intoxication.** The parties shall likewise assure, to the extent possible, that other household members and/or houseguests comply with this prohibition.
14. The parties shall provide to one another an emergency contact telephone number, email address or contact person.
15. The parties shall refrain 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.
16. 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.
17. 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.
- 18. 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.**
- 19. Once Mother and/or Father have completed their court ordered evaluations and taken the four-hour educational parenting seminar, they may contact this Court for a status conference.**

RELOCATION

20. 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:

Robert Sakovich, Esquire, 2000 Linglestown Road, Suite 106, Harrisburg, PA 17110
Le'Andre Mangus, 1409 Green Street, Harrisburg, PA 17102
Jamie Brumfield-Campbell, 548 South Richard Street, Bedford, PA 15522
Court Administration
File

MAR 06 2018

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


Matthew R. Krupp
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