

# The Family Court of the State of Delaware



ROBERT BURTON COONIN  
JUDGE

LEONARD L. WILLIAMS JUSTICE CENTER  
500 N. KING STREET, STE 9400  
WILMINGTON, DELAWARE 19801-3732

May 15, 2019

C----- P-----  
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Clayton, DE 19938

**LETTER, DECISION  
AND ORDER**

K----- K---  
48 Julie Lane  
Newark, DE 19711

RE: C----- P----- v. K----- K---  
File No.: CN10-02940; Petition No.: 18-19399  
**Petition for Custody: L----- K--- (D.O.B. --/--/07)**

Dear Ms. P----- and Mr. K---:

This is the Court's decision regarding the Petition for Custody filed by C----- P----- (hereinafter "Mother") on July 2, 2018 against K----- K--- (hereinafter "Father"), in the interest of their minor son, L----- K--- (hereinafter "Child"), born ----- --, 2007. Both parents are self-represented.

## **Procedural History**

In her July 2, 2018 Petition for Custody, Mother requested joint legal custody and primary residential placement of Child, with Father having visitation on weekends, every other holiday, Father's day, Father's birthday, and every other birthday for Child. Mother further

requested, among other things, that Child be in “a stable, clean, smoke free home.” Although Father did not file an answer or response to Mother’s Petition for Custody, Father did file a Custody, Visitation, and Guardianship Disclosure Report on August 10, 2018, in which he requested shared residential placement and requested to share time with Mother “Monday, Wednesday [sic], Thursday and Friday for school”, though Father did not elaborate on this arrangement.

On August 14, 2018, the parties entered into an Interim Consent Order for Custody and Visitation which granted both parties joint legal custody and primary residential placement to Mother. The parties were encouraged in the Order to create an equitable written contact schedule that fits their circumstances and Child’s life. In the event the parties could not reach an agreement, Father was granted visitation every weekend beginning at 7:00PM on Saturday through 8:00AM on Monday morning when Child is to be dropped off at school. Father was also granted visitation every Tuesday from 4:00PM until 8:30PM.

On October 23, 2018, Mother filed a Motion for Supervised Visitation in which she alleged that, during a recent hunting trip, Father “smacked” Child in the back of the head and later “grabbed” and “shoved” Child to the ground several times. Mother further alleged that Father spoke poorly to Child about his deceased maternal grandfather. Mother requested that Father engage in anger management, family counseling, and parenting classes and that his visitation with Child be supervised in the meantime. On November 13, 2018, Father filed an Answer to Mother’s Motion for Supervised Visitation in which he acknowledged that he and Child had an “argument” during a recent hunting trip. While Father denied ever striking Child, he did admit to grabbing Child. Father further acknowledged that he had shown Child newspaper articles about his maternal grandfather because Child did not understand the truth about his maternal grandfather. The Court reserved issuing a decision on the Motion for Supervised Visitation until the final hearing on Mother’s Petition for Custody.

A hearing on Mother’s Petition for Custody was held on March 13, 2019. At the conclusion of the hearing, the Court decided to conduct a child interview with L-----, and this interview occurred on March 27, 2019.

Prior to the Court issuing this decision, Mother filed a Motion for Emergency *Ex Parte* Order to Modify Visitation. In her Motion, Mother claimed that Child suffered a seizure on April 6, 2019. In light of the numerous tests, medical follow-up appointments, and constant

supervision that Child requires while sleeping, Mother requested that the Court suspend overnight visitation with Father and grant him only day visits. In support of this request, Mother reported that Father often works overnight shifts and is, therefore, unable to provide the round-the-clock supervision Child needs during the night. After two teleconferences on this Emergency Motion, the Court has issued an Interim Visitation and Scheduling Order which addresses Mother's most recent concerns regarding visitation. While the parties discussed and, in fact, reached an agreement on visitation during the custody hearing, the visitation arrangement and provisions in the Interim Visitation and Scheduling Order issued contemporaneously with this decision on May 15, 2019 shall supersede the agreements contained herein.

### **Background Facts**

Mother and Father were never married but resided together in Father's parents' (hereinafter "Paternal Grandparents") home for the first two years of Child's life. In 2009, Mother and Father separated and Father moved out of the home, but Paternal Grandparents allowed Mother and Child to stay with them until they were able to find a place of their own. Mother and Child stayed in Paternal Grandparents' home until April 2014 or April 2015 before moving into the home of C----- K---, Child's paternal aunt. Mother testified that she and Child lived there for approximately one and a half years before moving to a rental home of their own in Newark, Delaware. Mother and Child continued to live in this home until May 2018, when Mother purchased a home in Clayton, Delaware, where she and Child continue to reside as of this hearing.

Mother has worked as a veterinary technician assistant at V-- G----- Animal Hospital in -----, Delaware since August 2005. Mother reported that no one else besides her and Child reside in her home.

Father resides in Newark, Delaware with his fiancée, C----- C-----, her thirty-four-year-old sister, A---- L-----, and Father's two daughters, A-----, age sixteen, and A----- R---, age six. Father primarily earns income as an Uber driver and typically works overnight evening shifts on the weekends, as this is the busiest and most profitable time for him to work. Ms. C----- is also employed and works for the corporate offices of H----- G--- C-----.

Because Father works overnight, he is usually not home while Child is sleeping on the weekend and he often sleeps in on Saturday and Sunday mornings due to staying up all night for work.

Father explained that this arrangement has not caused any issues for Child because Ms. C----- is home with Child for the entire weekend and she and Child have a good relationship with each other because Child is generally more comfortable and at ease with women as opposed to men.

The parties both reported that they have not been following the visitation provisions in the Interim Consent Order, but rather, Father sees Child every Tuesday evening at his karate practice and Child usually has visits with Father every weekend beginning on Saturday afternoon or morning until Sunday afternoons. Mother testified that she offers Child the opportunity to begin his weekend visitation on Friday evenings but Child does not usually want to spend two nights in a row in Father's home. Mother further conceded that Child has not had visitation with Father for the past three weekends. Mother explained that Child has been complaining of headaches, body aches, and nausea. Because Child was not acting like "himself" and asked to stay home with Mother, she has not required Child to go to Father's home for the past several weekends. Father took issue with the fact that Child has not been to his home for the past three weekends and argued that Child has not been sick enough to go out other places so Mother should not have allowed him to miss his visits.

### Custody

The Court has not previously entered a final custody order for Child. Therefore, in making its determination the Court must consider the best interests of Child guided by an analysis of the factors under 13 *Del. C.* § 722.<sup>1</sup> The Court has held that some factors may be given more weight

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<sup>1</sup> 13 *Del. C.* § 722(a) provides:

The Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the Court shall consider all relevant factors including:

- 1) The wishes of the child's parent or parents as to his or her custody and residential arrangements;
- 2) The wishes of the child as to his or her custodian(s) and residential arrangements;
- 3) The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;
- 4) The child's adjustment to his or her home, school and community;
- 5) The mental and physical health of all individuals involved;
- 6) Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of this title;
- 7) Evidence of domestic violence as provided for in Chapter 7A of this title; and
- 8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.

than others in the Court's analysis.<sup>2</sup> The factors are as follows:

**(1) The wishes of the child's parent or parents as to her custody and residential arrangements;**

During the hearing, both parties agreed on joint legal custody and primary residency with Mother. The parties initially disagreed on a proposed visitation schedule for Father but, after some discussion on the record, Mother and Father also reached an agreement with regard to the visitation schedule. However, as noted above, since this hearing has concluded, Mother filed an Emergency Motion to Modify Visitation which seeks to modify the visitation agreement reached by the parties during this hearing. The Court is issuing an Interim Visitation and Scheduling Order today May 15, 2019 which shall supersede the agreement reached by the parties during this hearing and remain in effect pending a final hearing on Mother's Motion to Modify Visitation, which has been scheduled for October 17, 2019. The Court will, nevertheless, outline the agreement for visitation reached by the parties during this hearing.

Mother and Father agreed that Child should have visitation with Father every other weekend from Friday evening after school until Sunday evening. On the other alternating weekends, the parties agreed that Child will have visitation with Father beginning Saturday evening until Sunday evening. The weekend visits which begin on Friday are to be aligned with Mother's work schedule. Mother reported that she must work during the day every other Saturday, and so on the Saturdays she is required to work all day, Child should have visitation with Father beginning on Friday evening. Mother also requested that she and Father either share or alternate holidays with Child. Mother reported that she would have no opposition to Father having extended visitation with Child during his summer vacation, if Father is available and willing to spend this additional time with Child. Father did not have an objection to either of these requests.

Because Mother and Father both agree on joint legal custody and primary residential placement being granted to Mother, this factor favors granting these requests. As to the specific issue of a visitation schedule for Father, this matter is addressed in a separate Interim Order on the Motion to Modify Visitation, and will be subject to modification after a full hearing on the

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<sup>2</sup> See *Fisher v. Fisher*, 691 A.2d 619, 623 (Del. 1997) (noting that "[t]he amount of weight given to one factor or combination of factors will be different in any given proceeding. It is quite possible that the weight of one factor will counterbalance the combined weight of all other factors and be outcome determinative in some situations.")

merits.

**(2) The wishes of the child as to his custodian(s) and residential arrangements;**

This Court spoke with Child, twelve years old, on March 27, 2019, after the conclusion of the Custody hearing. Child reported that the only thing he would change regarding his custodian and residential arrangements are the times for his weekend visits with Father. Child reported that he generally goes to Father's home early in the morning or afternoon on Saturdays but he would prefer to go to Father's home around 7:30PM or 8:00PM on Saturdays instead. With regard to Sundays, Child stated that he would not mind spending the entire day at Father's home on Sundays if Father's family is doing something fun that day, which they sometimes do. Child did not want to spend much time in Father's home on Saturdays because he did not feel as though he had anything to do there. The Court finds that this factor favors granting joint legal custody to both parents and primary residency to Mother with visitation for Father. While Child expressed his wishes as to the visitation schedule, visitation is not being decided within this decision and Order and, therefore, the Court will not consider Child's specific wishes for visitation at this time.

**(3) The interaction and interrelationship of the child with her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or person who may significantly affect the child's best interests;**

Child's Relationship with Mother

By all accounts Mother and Child have nothing but a great relationship with each other. Mother described herself and Child as a "good team" and explained that she and Child have developed a good routine and schedule with each other over the past several years. Mother acknowledged that she sometimes loses her temper with Child and lashes out at him, but she also stated that she often immediately feels bad about her actions and is comfortable having a conversation with Child in order to apologize for her behavior and discuss any issues with Child. Mother explained that sometimes she and Child get into arguments because Child does not always do what is asked of him and, instead, would rather do the things he wants to do, such as playing video games.

J----- K---, Father's mother and Child's paternal grandmother, also testified that Mother

and Child have a “perfect relationship” with each other. She elaborated that Mother is diligent when it comes to Child and, in return, Child loves Mother dearly. While Father did not disagree that Mother and Child have a good relationship, Father did believe that Mother is often too lenient with Child and lets him make decisions that, as a child, he has no right to be making, such as dictating the terms and conditions of his visitation with Father.

Child described his mother as “an amazing mother” who is “very loving” and takes care of others. When asked what he liked best about his Mother, Child responded by saying “there’s so many things” but he most appreciated that Mother shares his love and passion for animals. Child acknowledged that Mother sometimes loses her temper and, when she does, she often uses swear words, which Child reported is the only thing he would change about Mother.

#### Child’s Relationship with Father

Unlike Child’s relationship with Mother, Child’s relationship with Father is far more strained and the parties spent considerable time discussing the issues in this relationship during the hearing.

Overall, Father stated that he believes his relationship with Child is “good”, however, he did express some concerns about his interactions with Child. Although Father did not think Child is unhappy during his visits, Father acknowledged that Child is often stubborn and thinks he can do whatever he wants during these visits and sometimes becomes upset when Father does not allow this. Father also explained that Child is usually upset when he first arrives at his home for visits but he is typically “fine” after some time and does not appear to have any issues for the rest of the weekend. Father also described Child as “opinionated” which sometimes leads to arguments between the two of them because Child often refuses to do what is asked of him.

Mother reported that Child’s relationship with Father has been better recently than it previously but Child and Father often get into arguments due to their differences of opinion. Mother reported that Father has made unkind remarks towards Child in the past and has called him names while speaking on the phone with him. Mother further testified that Father has made threats to Child that he would take him away from his Mother and force Child to live with him, to which Child has responded by saying he would “kill himself” if that were to happen. Notwithstanding these concerns and interactions, Mother believes that Child would like to have a better relationship with Father and wants to spend more one-on-one time with his father doing things they both enjoy

doing such as fishing and taking hikes in the woods.

Mother suspected that a large part of the issue in Child and Father's relationship is that they do not know how to effectively communicate with one another and find common ground, which Mother believes could be addressed in family counseling. Father indicated that he would be willing to engage in counseling with Child but he has concerns that Child would not be willing to do this at the present time. The Court asked Child how he would feel about going to family counseling with Father to express some of his concerns and to work through any issues he has with Father. After some hesitation, Child reported that he thinks counseling with Father would be "fine" but he quickly noted that he would not like to be with Father in the same room during counseling. Child explained that he is "not comfortable" with talking about his feelings in front of Father and even if the therapist started off with separate counseling and eased into joint sessions, Child still not be "okay" with this arrangement.

Child described Father as a "loving father" who tries to take care of all of his children. When asked what he likes best about Father, Child responded by saying that he enjoys that Father is always striving to be a better parent and take more responsibility for his children. Child explained that the things he would change about his father are the fact that Father calls his half-sister derogatory and negative names, which Child felt was unkind. Child also reported that he would like Father and Father's fiancée to stop smoking in the home. Child acknowledged that, like Mother, Child and Father get into arguments with each other, although Child noted that he has more arguments with Father and Father "yells" more than Mother. Overall, Child seemed to agree that visits and his relationship with Father has been better over the past few months than it previously was.

The parties also explained that Father has made negative comments to Child about his maternal grandfather, who passed away several years ago, which comments have caused a strain in Child and Father's relationship. Mother reported that her father was incarcerated many years ago after he was an accomplice to a crime and pled guilty to the charge of abusing a corpse. After he spent two to three years in prison, Mother reported that her father was a changed man and an upstanding citizen, and this is the only version of her father that Child knows. After Child made some comments towards Father during an argument which suggested that Child thought Maternal Grandfather was a better person than Father, Father showed Child newspaper articles about Maternal Grandfather's arrest and criminal charges, which upset Child. Child also recalled this

incident and told the Court that his father told him his maternal grandfather “killed his friend.” Father acknowledged that he showed Child these news articles and he stated that he did not regret doing so as Child “had the right to know the truth” about his maternal grandfather.

Another issue that became apparent to this Court is that Child is often bored and does not feel completely welcomed in Father’s home during visits. While Child reported that he and Father “sometimes” do fun things together during visits, such as fishing, Child often spends much of his time at Father’s home sleeping or playing video games. Child did not feel as though he could do fun activities with his half-sisters in Father’s home and he reported that Father does not often take the family out in the community to do things. Another issue that Child mentioned in Father’s home are his sleeping arrangements. Child does not have his own bedroom at Father’s home and so he sleeps in his younger half-sister’s room while visiting on the weekends. Child reported that the only bed in his half-sister’s room is a crib and so that is where he has to sleep while he visits Father’s home.

#### *November 2018 Hunting Trip Incident*

In addition to the concerns noted above, Mother, Father, and Child also spoke at length about an incident which occurred in November 2018 when Child and Father went on a hunting trip together. According to Mother, Child became upset during the hunting trip because he did not have his cell phone or headphones. Child reported to Mother that Father was also angry with him because Child was not enjoying the activity of hunting. Mother reported that Father asked Child “what would you do if you had a family? You need to hunt to take care of them”, to which Child responded that he did not want a family. Child told Mother that Father then asked him if he “wanted to be gay” and Child responded by saying that he did not want to be gay, but rather, he just did not want to have a family. Child then reported that Father lost his temper, pushed him to the ground, and smacked his head. When they returned home later that day, Child was still in a bad mood from the incident in the woods and got into an argument with his half-sister, A-----. Child told Mother that Father heard the argument and came into their bedroom and pulled Child off the bed and threw him to the ground, causing him to hit his head and his arm.

Father explained that during their hunting trip, Child became “fidgety” because he did not have his cell phone or headphones and started having an “attitude” towards Father in a way which Father though was uncharacteristic of Child. Father explained that Child started to throw a fit and so Father grabbed Child’s arm in order to take him home. When they got home, Child continued

to be upset and told Father things such as “I can’t wait to never see you again. Mom says I don’t have to”, which prompted Father to send Child to his room. Father agreed with Mother’s version of events that Child got into a fight with his half-sister, which Father ended by grabbing Child’s arm and pulling him out of the room to separate the two children. While Father denied ever hitting Child, Father did receive a call from the police and the Division of Family Services the following day to investigate the incident. Father reported that he never heard anything from either agency after he met with them.

Child described his version of the November 2018 hunting trip during his interview with the Court. Child explained that he left his cell phone and headphones in the car because he did not realize how long they would be hunting. He tried asking Father to go back to the car to get these items but Father would not let him. Child then acknowledged that he was being “bad and loud” as a result of not getting what he wanted, which caused Father to smack his hand. Child told this Court that he then began saying things he “shouldn’t have said” and Father became angry and pushed him into the trees “two or three” times. When they got home, Child explained that his half-sister was irritating him which caused Father to come into their bedroom. Child then stated that Father grabbed one of his legs by both hands and pulled him, which caused Child to hit his head on the ground.

#### Child’s Relationship with Father’s Household Members

Father testified that Child does not have any issues with his two step-sisters who reside in Father’s home and the children usually get along well, with the exception of typical sibling arguments and disagreements. Father reported that Child “loves” Father’s fiancée and feels comfortable opening up and communicating with her. Mother reported that Child and his younger half-sister used to get along very well but lately Child has started to find his younger half-sister “annoying.” Mother also reported that Child’s older half-sister has a more difficult relationship with him because she is a teenager and enjoys teasing both of her younger siblings. Child did not report any concerns with either of his half-sisters, but he did corroborate Mother’s testimony that his older half-sister “bullies” himself and his younger half-sister. Child also described Father’s fiancée as “really good” and he noted that the only problem he has with her is that she smokes in the home, although he noted that she does this less frequently than Father.

From the Court’s perspective, Child and Father have difficulty relating with each other and

discussing their issues in a way that does not lead to explosive arguments. Although Child does not feel comfortable talking about his feelings in front of Father, the Court does agree that it would be beneficial for Father and Child's relationship to engage in family counseling to improve their relationship over time. That said, Child was very adamant that he would not like to be in the same room and attend joint counseling sessions with Father, so it is imperative that any counselor that the parents seek out is aware of Child's concerns and is amenable to working with both Child and Father separately, until such a time as they deem it is appropriate to begin working on family related issues together. While the Court is concerned about Father's anger and method of addressing issues concerning Child, Child still appears to love and cherish his father, although not as much as his mother. Overall, Child enjoys spending time with both parents but feels more comfortable and at peace in Mother's home, therefore, this factor favors joint legal custody and primary residency with Mother.

**(4) The child's adjustment to his home, school and community;**

Mother and Child recently moved to their current home and community in May 2018. Child is in the sixth grade at ----- School. Child usually receives A's and B's, although he has recently been struggling in his language arts class and Mother is helping Child to improve his grade in this subject. Child reported that his favorite thing about school are all of his friends there. His favorite subject is math and his least favorite subject is science because he finds the way that they learn in that class to be "frustrating."

Child reported that he makes friends "kinda easily", although Mother had some concerns that Child may not have as many friends as he claims. Child reported he has several friends both in school and outside of school and he enjoys playing online video games with them. Child also a friend in his new neighborhood who lives just a few houses away from him. Child's favorite activity is playing video games, much to Mother and Father's frustration at times because Child often does not want to do anything else. Child also reported that he enjoys animals and he enjoys playing with the five cats, two rabbits, and one dog in Mother's home.

The Court finds that Child is well-adjusted to Mother's home and community although neither party is seeking a change in Child's residency at this time. Therefore, the Court finds that this factor supports granting joint legal custody and maintaining primary residency with Mother.

**(5) The mental and physical health of all individuals involved;**

Mother reported that she is in good physical health. With regard to her mental health, Mother testified that she suffers from anxiety and depression but regularly sees her doctor for these concerns and is taking prescribed medication to manage her symptoms.

Father reported that he is in good physical health and, although Mother suggested Father has anger management issues, Father reported that he does not feel as though he has any need for mental health treatment at this time. Father acknowledged that he previously had a substance abuse problem but he has not used drugs in over two years. In addition, Father was receiving methadone but reported that he had his last treatment approximately one week prior to this custody hearing.

Father reported that his fiancée is in good physical health but her sister, Annie Lawrence, who also resides in Father's home, suffers from cognitive limitations.

With regard to Child's mental health, Child has been diagnosed with anxiety and depression and he attends regular counseling on a bi-weekly basis with L--- D----. Mother explained that Child has been seeing Ms. D---- for approximately two years in order to address issues such as Mother and Father's separation, the recent death of two of his grandparents, bullying, and social insecurity at school. Child is prescribed Concerta, Fuloxetine, and Clonidine to help him concentrate and sleep better at night.

Recently, Child has also been experiencing several unexplained issues with his physical health. Mother reported that Child has been complaining of headaches and stomach aches for the past several weeks, which has caused him to miss visitation with Father on the weekends. In an attempt to understand the cause of these symptoms, Mother has taken Child to the hospital and to a neurologist, but they have not yet been able to ascertain what is wrong with Child. Child also had an MRI scheduled for approximately two weeks after this Custody Hearing. In the Emergency Motion to Modify Visitation filed after this Custody hearing concluded, Mother claimed that Child has recently begun to suffer unexplained seizures which requires constant monitoring and a series of additional tests.

While the parties do have some mental health and physical health concerns, it appears that these issues are currently being properly addressed and treated. Therefore, the Court finds this factor to be neutral.

**(6) Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of this title;**

Pursuant to 13 *Del. C.* § 701, even without a Court Order, parents are responsible for the

support, care, nurture, welfare, and education of their children. There was no evidence to suggest that Mother or Father are failing to meet their financial obligations to Child although there is no child support order between the parties. Both parents appear to be engaged in Child's life and activities. Mother testified that Father is not as involved or interested in Child's interests as he could be though she did acknowledge that Father always attends Child's weekly karate lessons to show his support. While Mother is usually responsible for obtaining any necessary medical care for Child, the parties both indicated that Mother keeps Father apprised of all appointments and any medical updates regarding Child. Although Father does not always attend Child's medical appointments, Father reported that he usually does not feel the need to because Mother lets him know what is going on. Nevertheless, he does attend some appointments, particularly more serious ones.

Because both parents appear to be complying with their rights and responsibilities to Child, the Court finds that this factor supports both parents having joint legal custody and primary residency with Mother, as she is primarily responsible for scheduling and attending Child's medical appointments.

**(7) Evidence of domestic violence as provided for in Chapter 7A of this title; and**

Pursuant to 13 *Del. C.* § 706A, "(a)ny evidence of a past or present act of domestic violence, whether or not committed in the presence of the child, is a relevant factor that must be considered by the court in determining the legal custody and residential arrangements in accordance with the best interests of the child." Both Father and Mother stated that they have never been found to be a perpetrator of domestic violence. Although Child and Mother reported that Father became somewhat physically aggressive during the November 2018 hunting trip, it does not appear that these concerns were particularly problematic and DFS has already investigated these allegations and taken no action. Therefore, the Court finds this factor to be neutral.

**(8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.**

Both Mother and Father denied having any criminal history. Father further denied that any member of his household has a criminal history.

## Conclusion

Mother and Father both agreed to joint legal custody with primary residential placement of Child with Mother. While the parties also reached an agreement on the proposed visitation schedule, the issue of visitation is addressed in a separate Order relating to the more recently filed Emergency Motion to Modify Visitation. The Court commends both parents for being able to reach an agreement during the hearing and prioritize their son's best interests and well-being while doing so. At the conclusion of the hearing, the only issue for the Court to resolve was whether or not to Order family counseling with Child and Father. As mentioned, the Court agrees that family counseling could certainly be helpful for Child and Father. Child loves his father and enjoys doing things with him but it appears as though Father has difficulty relating to his son and sometimes lets his anger and frustration impact his interactions with Child. Although family counseling would be helpful to address these concerns, Child informed the Court that he would not feel comfortable attending therapy sessions with Father, even though he would be amenable to participating in family counseling separately from Father. To that end, it is in Child's best interest to pursue family counseling with a therapist who is understanding of Child's concerns and is amenable to working with Father and Child independently, until Child expresses he would be comfortable having joint sessions.

### **ACCORDINGLY, IT IS HEREBY ORDERED THIS 15<sup>TH</sup> DAY OF MAY, 2019, AS FOLLOWS:**

1. Mother, C----- P-----, and Father, K----- K---, shall have joint legal custody of their minor son, L----- K---, born -----, 2007, with primary residential placement of L----- granted to Mother.
2. Visitation shall occur in accordance with the Interim Visitation and Scheduling Order, being issued by this Court contemporaneously dated May 15, 2019.
3. Mother and Father shall arrange for family counseling between Child and Father. Mother and Father shall mutually agree upon a therapist for this family counseling and any costs for this counseling, not covered by insurance, shall be shared by both parents.
4. Father and his fiancé, C----- C-----, shall refrain from smoking in the house while Child is present.

The Court reminds the parties that each parent is entitled by statute to have reasonable access to his or her child by telephone, mail, and other means of communication and to receive all material

information concerning the child.<sup>3</sup> Each party shall foster a feeling of affection and respect between the child and the other parent. Moreover, neither party shall do anything that may estrange the child from the other party, injure his or her opinion of the other party, or hamper the free and natural development of his or her love and respect for each party.

**IT IS SO ORDERED.**

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**Robert Burton Coonin, Judge**

RBC/jr

Cc: File, parties

Mail Date: \_\_\_\_\_

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<sup>3</sup> See 13 Del. C. § 727(a):

Whether the parents have joint legal custody or 1 parent has sole legal custody of a child, each parent has the right to receive, on request, from the other parent, whenever practicable in advance, all material information concerning the child's progress in school, medical treatment, significant developments in the child's life, and school activities and conferences, special religious events and other activities in which parents may wish to participate and each parent and child has a right to reasonable access to the other by telephone or mail. The Court shall not restrict the rights of a child or a parent under this subsection unless it finds, after a hearing, that the exercise of such rights would endanger a child's physical health or significantly impair his or her emotional development.