

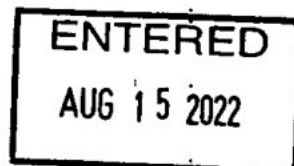
COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
HAMILTON COUNTY, OHIO



Plaintiff

-vs-

Defendant



CSEA:

**MAGISTRATE'S DECISION
WITH FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Judge

Magis

On February 11, 2021, Plaintiff/Mother (hereinafter "Mother") filed a motion captioned *Motion For Contempt And To Modify Parenting Time*. On November 18, 2021 Defendant/Father (hereinafter "Father") filed a motion captioned *Motion For Parenting Coordination*. On March 18, 2022 Father filed a motion captioned *Motion To Modify Parenting Time And Related Parenting Provisions For Benefit of Parties' Minor Child*. On May 13, 2022 Mother filed *Plaintiff's Response To Motion To Modify And Supplement To Motion To Modify*. Magistrate [REDACTED] heard these motions on May 17, 2022, June 10, 2022 and July 21, 2022 in accordance with Rule 53 of the Ohio Rules of Civil Procedure and a General Order of Reference that is of record. Attorneys were ordered to submit written closing arguments with suggested findings of fact and conclusions of law by August 8, 2022. Present at the hearings were both parties and their respective counsel. Mother was represented by [REDACTED] Esquire and Father was represented by [REDACTED] Esquire. Mother and Father testified. [REDACTED] MSW testified. [REDACTED] LPCC, [REDACTED] therapist, testified. [REDACTED] Father's live-in significant other, testified. Exhibits 1-13 as well as 14-15 were received and admitted into evidence. Exhibits F, J and M were received and admitted into evidence. Based upon the evidence presented, the following is issued:

PROCEDURAL HISTORY

A detailed description of the procedural history of this matter is required in order to fully understand how the parties arrived at filing motions beginning February 11, 2021. Counsel for Defendant provided a detailed explanation of the procedural history with his written closing arguments which is restated and at times paraphrased below.

The parties entered into a Final Decree of Divorce that was entered by this Court on May 1, 2017. The Decree incorporated the parties' Parenting Agreement, which awarded custody of the parties' daughter, [REDACTED] (born [REDACTED] to Mother. The Decree and Parenting Agreement provided limited parenting time for Father, and included a number of therapy and other rehabilitative requirements for Father.

In June of 2020, two disputed events led to a domestic violence filing by Mother in Warren County Domestic Relations Court. The primary allegations were that Father had forced [REDACTED] to shoot a live raccoon in his garage, and that [REDACTED] had witnessed Father's domestic violence against his live-in significant other, [REDACTED]. The domestic violence case and the *ex parte* CPO subsequently were voluntarily dismissed by Mother. The same allegations were investigated by Warren County Children Services but no further action was taken by the agency.

On July [REDACTED] parenting time with [REDACTED]. The Court subsequently appointed a guardian ad litem for [REDACTED] who addressed the same allegations that had been the subject of the prior proceedings in Warren County. After the guardian ad litem completed her report, the parties entered into the Agreed Entry dated August 25, 2020 to temporarily address the parenting time issues until a final outcome was reached.

On February 8, 2021 the parties entered into a final Agreed Entry regarding parenting time. The Agreed Entry modified and substantially expanded Father's schedule of parenting time with [REDACTED]. The primary parenting time provisions set forth a two-week schedule for the school year that was slightly increased during [REDACTED] summer school break.

Under the Agreed Entry, Father's parenting time during Week 1 goes from Sunday at 6:00 pm until Tuesday morning. Week 2 is Father's more extended weekend time with [REDACTED] which goes from Friday evening (after work . . . approximately 8:30 pm) until Tuesday morning. During [REDACTED] summer break from school, the Agreed Entry extends Father's parenting time to Wednesdays at 5:00 pm during Weeks 1 and 2.

On February 11, 2021 (three days after the Court finalized the parties' Agreed Entry), Mother filed a Motion for Contempt and to Modify Parenting Time. Parties agreed to mediate the issues. After months of unsuccessful mediation efforts, the Court ordered a Brief Focused Investigation on November 18, 2021. Father also filed a Motion for the appointment of a Parenting Coordinator on November 18, 2021.

██████████ MSW of the Hamilton County Dispute Resolution Department of the Hamilton County Court of Domestic Relations, completed his Brief Focused Investigation as ordered and issued his investigation report on March 15, 2022. The matter was scheduled for trial once the Brief Focused Investigation was completed and parents were unable to reach an agreement on the pending motions.

On May 13, 2022 (4 days before the 1st day of trial), Mother filed "Plaintiff's Response to Motion to Modify and Supplement to Motion to Modify." Counsel for Father objected due to the short notice of Mother's motion which was overruled, but then waived his right to a continuance. Mother's Supplement to Motion to Modify requested the Court to drastically reduce ██████████ parenting time schedule to Tuesday from 4:00 pm to 6:00 pm during Week 1, and from Saturday at 10:00 am to Sunday at 6:00 pm during Week 2. Mother requested this modification because of the information she received from ██████████ therapist.

FACTS

PARENTING TIME CONTEMPT

After lengthy efforts, parties reached an agreement on parenting time and submitted an Agreed Entry which is of record with the Court on February 8, 2021. The Agreed Entry is very detailed. One portion of the Agreed Entry was interpreted differently by each parent and is at the center of the current dispute which was "The straw that broke the camel's back" causing Mother to file a motion for contempt three days after the Agreed Entry was entered. The section of the Agreed Entry in dispute states:

"1. Parenting time: School year

Beginning the last full week prior to the first day of school, the parents shall follow a two-week rotating parenting time schedule. Father shall have parenting time during Week 1, beginning Sunday at 6:00pm until Tuesday school drop off (or to Mother's home in time for virtual learning if applicable), and during Week 2, Father shall have parenting time from after he gets off work, which is approximately 8:30pm Friday until Tuesday school drop off (or to Mother's home at 9:00am for virtual learning if applicable). "

February 9, 2021 was a Tuesday and Father was exercising his parenting time pursuant to the agreement outlined above. On Tuesday February 9, 2021 the parenting time schedule granted Father parenting time until he dropped ██████████ off at school or to Mother's home in time for virtual learning if applicable. This particular Tuesday was a "snow day" and school was closed. Mother sent Father a text message stating, "School is closed today. Have fun in the snow!! See

ya at 330”, “If you take any pictures playing in the snow I would love them”, “If you’d like (and she would) you may keep her until five.” (Exhibit F-1) Father replied, “Yea, that’s what the agreement says” (Exhibit F-1) Mother disputes that was what the Agreement says and parents then go back and forth through text messages debating what the parenting time agreement actually is. Ultimately Father disagrees that he is required to transport [REDACTED] home to Mother after the snow day so Mother picked up [REDACTED] from Father’s home around 6:30pm. Then parents continued to text each other debating the transportation responsibilities and timing of such. (Exhibit F1-F3)

The language from the parties’ Agreed Entry in dispute states, “Father shall have parenting time during Week 1, beginning Sunday at 6:00pm until Tuesday school drop off (or to Mother’s home in time for virtual learning if applicable)” The language does not address what to do in the instance of a “snow day” when school is called off and there is no scheduled virtual learning.

Mother felt she was being generous in allowing Father more time with [REDACTED] due to the snow day and also felt she was being responsible by not having either Father or she drive when the roads were snowy. Mother assumed it was Father’s responsibility to transport [REDACTED] home at the end of the snow day as he would have dropped her off for school or to Mother had there been virtual learning.

Father felt it was Mother’s responsibility to pick up the child from him after the snow day.

Parties also often engaged in a debate over Father’s week 2 parenting time which states, “...and during Week 2, Father shall have parenting time from after he gets off work, which is approximately 8:30pm Friday until Tuesday school drop off (or to Mother’s home at 9:00am for virtual learning if applicable).”

While parents had worked cooperatively for a period of time, they eventually began to disagree on the meaning of the language, “approximately 8:30pm Friday”. Father works as an ICU nurse and his schedule is unpredictable so the intent of the language was meant to address this unpredictability. When cooperating, parents behaved flexibly and Father would pick up [REDACTED] a bit earlier (i.e. 8:15pm) because he was able to leave on time and Mother did not object. Over time Mother began refusing to allow [REDACTED] to go with Father until 8:30pm even if Father was available earlier. At one point, Father testified that he sat in his car until 8:30pm because Mother would not let [REDACTED] leave before 8:30pm.

The parties require clarification of the parenting time agreement regarding these two parenting time issues.

CONTEMPT DUE TO DISPARAGEMENT OF MOTHER

Text messages were exchanged regularly debating the parenting schedule as well as other parenting issues. Accusations were hurled at one another that the other was intentionally creating problems. (Exhibit F) While Mother appeared to almost always maintain her composure through her text messages, Father repeatedly made horrible statements as accurately relayed by attorney [REDACTED] in his written closing argument. "Father has disparaged Mother repeatedly over the years and continues to think he "knows best" despite [REDACTED] wishes and the decisions Mother has made. By way of illustration, on February 24, 2022, Father and Mother were notified by [REDACTED] therapist of her desire to wear a mask during soccer practice due to her concerns with [REDACTED] (Exh. 6, pg. 8 and 10). Subsequently, on February 26, 2022, Father sent a barrage of inflammatory text messages to Mother telling her how "mean" she is to [REDACTED] how she is torturing [REDACTED] and how she is only trying to make [REDACTED] life more difficult (for making her wear a mask). (Id., pg. 12-15) Then, as usual, the text message exchange turned into Father attacking Mother by calling her "narcissistic," and how Mother is "delusional," and accused Mother of being unreasonable. (Id., pg. 16) Father then wrongly informs Mother that "Kids haven't been affected by covid EVER" and how (Mother) doesn't care about [REDACTED] safety in the least. (Id.) Father continues on by telling Mother she is blinded by (her) narcissism and she lies and lives in a delusion. (Id.) Father then, still two days after learning of their daughter's desire to wear a mask, tells Mother that she is "so far stuck up (her) own ass the (she) won't listen to reason and then tells Mother she needs mental help. (Id., pgs. 16-18) Finally, despite Mother's and [REDACTED] wishes, Father informs Mother that [REDACTED] will NOT be wearing a mask to soccer and if you don't want to see it, then don't come." (Id., pgs. 19-20) These are just a few examples of the text messages.

In fairness to Father, he openly admits that his language in these text messages was wrong, inappropriate and not conducive to fostering good communication. He testified that [REDACTED] was present with him or Mother when many of these text messages were sent and/or received and he now realizes this type of communication is also harmful to their relationship with [REDACTED] Father testified that he is "embarrassed" by his behavior and the tone of the messages he sent and will no longer communicate with Mother in such a fashion. Father appeared sincere and [REDACTED]

that Father be held in contempt for the disparaging communications and ordered to pay a \$250.00 fine.

MODIFICATION OF PARENTING TIME

Both parties are requesting a modification of their parenting time. Mother is requesting to drastically reduce Father's parenting time. Father is requesting to maintain the parenting time schedule as outlined in the February 8, 2022 Agreed Entry with minor modifications to the language regarding transportation as well as pick-up times from Mother on Fridays after work.

The issue of parenting time appears to be the most pressing and polarizing issue confronting the parents. As was thoroughly described in the Procedural History above, the parenting issues heightened approximately two years ago when [REDACTED] was six years old. She reported to her mother that her father had allowed her to shoot a live raccoon with a gun in his garage and that she witnessed Father grab [REDACTED] by the ankles and drag her across the floor. Mother was very concerned about Father allowing their daughter to shoot a gun and felt [REDACTED] description of Father's behavior toward [REDACTED] amounted to domestic violence.

This information led Mother to request and receive an *ex parte* Domestic Violence Civil Protection Order against Father and an investigation of Father by the Warren County Children's Services. Ultimately Mother voluntarily dismissed the *ex parte* civil protection order and Warren County Children's Services closed their case without any findings. While these incidences are not cited as the basis for Mother's current motion for contempt or Mother's current motion for modification of parenting time, these incidences are an underlying issue that is repeatedly rehashed by the parents and are incidences that made a significant negative impact on [REDACTED] emotional well-being.

As attorney [REDACTED] correctly states, Mother's February 11, 2022 Motion to Modify Parenting Time made no mention of the raccoon incident that took place in June of 2020 or the domestic violence claim that Mother had originally made in June of 2020. Mother's February 11, 2022 Motion for Contempt was based on Father's failure to return [REDACTED] to Mother's house on the snow day, February 9, 2021 at 9:00am. The Motion for Contempt also was based on Father's derogatory statements to Mother.

Mother's Motion to Modify Parenting Time set forth two reasons for a modification of Father's parenting time: (1) Father's "instantaneous" failure to follow the Agreed Entry by not returning [REDACTED] to Mother's house on February 9, 2021 at 9:00 am; and (2) [REDACTED] failure to wear shoes when she picked up [REDACTED] on Sunday, February 7, [REDACTED]

address Mother's concern regarding [REDACTED] failure to wear shoes when she picked up [REDACTED] on Sunday, February 7, 2021 as it occurred prior to the February 8, 2021 Agreed Entry and is De minimis or so minor as to merit disregard.

RACCOON AND DOMESTIC VIOLENCE INCIDENT

While Mother's motion for contempt and motion for modification of parenting time do not mention the 2020 raccoon or domestic violence incident, it is a prior major underlying incident with Father and [REDACTED] involvement that affected [REDACTED] mental health and one of the reasons [REDACTED] is participating in therapeutic services.

Father and his girlfriend, [REDACTED] both testified. They stated that a raccoon got in their garage and that they safely trapped it took it to [REDACTED] family farm where it was safely released. Because [REDACTED] was raised on this farm, she and her family members own firearms and are well-trained in the use of firearms. While at the farm, they allowed [REDACTED] to target shoot with a bb gun. Both Father and [REDACTED] are consistent in their testimony and the only first-hand witnesses. They believe, that due to [REDACTED] young age, she misstated the timing and nature of events.

Regarding the allegation that Father grabbed [REDACTED] by her ankles and dragged her across the floor they stated the only explanation they can imagine is a time when they were all playing in the yard doing cartwheels and Father grabbed [REDACTED] ankles to catch her feet so that she could then start walking on her hands and she eventually fell to the ground unharmed. Again, Father and [REDACTED] were the only first-hand witnesses to the incident. [REDACTED] insists that Father has never been violent toward her in any way. While both Father and [REDACTED] appear credible, their other actions cause some concern. The intensity and vulgarity of the words Father used toward Mother in text messages suggests that he might have a temper and anger issues. As for [REDACTED] she testified that at one time she left Father for a period of time and moved out of their home. While she claims she was struggling with emotional issues, it raises the question of whether Father was the source of her emotional distress and that he might be physically abusive as reported by [REDACTED] and /or verbally abusive toward [REDACTED] as he has been toward Mother in text messages.

MS. [REDACTED] LPCC

Regardless of the veracity of the alleged events, both incidents concerned Mother enough that she started [REDACTED] in therapy. The child's therapist, Ms. [REDACTED] LPCC, testified about her observations of Mother and Father's relationship with [REDACTED] and about her therapeutic

involvement with [REDACTED] Ms. [REDACTED] reports that Mother's relationship with the child is appropriate, loving, and supportive.

However, she testified that Father has a complicated relationship with [REDACTED] and that she continues to experience significant anxiety leading up to, and immediately following, the time she spends with Father. Ms. [REDACTED] also testified that Father is now the sole source of the child's anxiety. As stated in attorney [REDACTED] written closing argument, the child's therapist further testified the child has made alarming disclosures about her relationship with Father, including but not limited to, the following:

-During play therapy, [REDACTED] reported her dad "makes me shoot a racoon, says that I am lying, yells at me and [REDACTED] spans me really hard, and held [REDACTED] upside down and carried her across the house dragging her while they were fighting." (*See Exh. 4, pg. 2*).

-Ms. [REDACTED] acknowledged Father denies nearly everything that [REDACTED] consistently, and voluntarily, reports to her. For example, Father emailed Ms. [REDACTED] in March of 2022 that [REDACTED] knows I would never hurt her." In response, Ms. [REDACTED] stated: "That is simply not true. [REDACTED] very much worries that if she says or does something her dad does not like, he will get angry with her and possibly physically hurt her since in the past (Father) has hurt her, Kimber (the dog) and [REDACTED] (*Id.*; *See also Exhibit 5*)

-Ms. [REDACTED] Mental Health Summary Report dated May 9, 2022 provided an explanation of her findings regarding [REDACTED] anxiety and distress and the causes of those emotions. In summary, Ms. [REDACTED] report, and testimony at trial, explained that while she and [REDACTED] engaged in directive play therapy intervention focusing on triggers that increase her anxiety, she determined that Father was the only remaining trigger¹ causing [REDACTED] anxiety for the following reasons:

[REDACTED] gets mad at her, spans her, hits her, and smacks her;

[REDACTED] scares [REDACTED] when he is angry;

[REDACTED] uses an angry voice for little things like when she spills water;

[REDACTED] fear that Father will hurt her like he has hurt [REDACTED] (scratching, yelling, saying bad words/cuss words); and

[REDACTED] is naked when he wakes up, which [REDACTED] things is "weird." (*Id. at pg. 4*)

Ms. [REDACTED] report, supported by her testimony at trial, stated that [REDACTED] routinely demonstrates anxiety while discussing her dad during session as evidenced by her saying "don't

¹ Ms. Furey testified that Stella initially had two triggers that increased her anxiety: her dad and her friends. However, the issues with [REDACTED] friends have been resolved through therapy and Father is currently her only trigger that increases her anxiety.

tell my dad” in a panicky voice, crawling around on the floor like an animal, trying to change the subject, using a baby voice, and fidgeting more than usual.” (*Id.*)

Ms. [REDACTED] report, and testimony, further provided [REDACTED] stated that at various times her dad has said to her, “you’ve ruined the day,” “don’t tell your mom,” and “if you get fat, I’ll make fun of you.” (*Exh. 4, pg. 4*) Ms. [REDACTED] also stated that [REDACTED] reported, “I feel worried when I’m at my dad’s” and that her dad calls her names including brat and a baby for missing her mom. (*Id.*)

Ms. [REDACTED] further testified, as supported in her report, [REDACTED] reported having nightmares about something bad happening to her, her mom, and her dad and described a nightmare where a robber killed her dad and she had to hide for an hour until her mom could pick her up because her parents live an hour apart.” (*Id., pg. 5*).

Ms. [REDACTED] testified that she is concerned that Father continues to undermine the symptoms and causes of [REDACTED] life. Father’s lack of support in [REDACTED] therapy, and undermining of Ms. [REDACTED] recommendations, directly impact her relationship with Father.

[REDACTED] has been diagnosed with Post Traumatic Stress Disorder (PTSD) and Separation Anxiety Disorder. Both parents agree it is important for [REDACTED] to continue with therapy and to have a safe and neutral place to discuss her true feelings. (*Id., pg. 6*) [REDACTED] has indicated to Ms. [REDACTED] that sessions with Ms. [REDACTED] provide that space for her and despite Father’s denial regarding several events, Ms. [REDACTED] firmly believes the statements [REDACTED] has made. (*Id.*)

[REDACTED] therapeutic goals include managing symptoms related to traumatic events, including but not limited to, witnessing domestic violence and emotional abuse by [REDACTED] dad. (*Id.*) Whether or not [REDACTED] actually witnessed a domestic violence act between Father and [REDACTED] this Court recognizes that the event, even if it really was harmless play, was interpreted by [REDACTED] to be a stressful event that caused her anxiety and a need for therapeutic services.

Ms. [REDACTED] has informed the parents, as stated in her report and through her testimony, the importance of acknowledging the impact that trauma has made on [REDACTED] life, including the undermining of her sense of safety and stability. (*Id.*) Furthermore, Ms. [REDACTED] stated the ideal approach is to reduce the sources of stress in her life (Father), which will in turn prevent the need for her high level of toxic stress responses and may prevent and counteract the long-term effects of her adverse childhood experiences (ACE’s). (*Id.*)

Ms. [REDACTED] testified that the next step in Stella’s therapy is for her to engage in “Eye Movement Desensitization and Reprocessing” (EMDR) to more directly address the traumatic

events that have happened in her life. (See also, *Id.*) However, Ms. [REDACTED] indicated that [REDACTED] does not qualify for the EMDR therapy at this time due to the fact they have to continuously work on helping [REDACTED] ongoing stress and anxiety directly associated with Father's parenting time. However, Ms. [REDACTED] did not make a parenting time schedule recommendation.

BRIEF FOCUSED INVESTIGATION: MR. [REDACTED]

The Court ordered a Brief Focused Investigation through the Hamilton County Court of Domestic Relations Dispute Resolution Department (DRD). [REDACTED] LSW, with the Dispute Resolution Department conducted the Brief Focused Investigation. Mr. [REDACTED] completed his Brief Focused Investigation as ordered and issued his investigation report on March 15, 2022. (Exhibit 12)

Mr. [REDACTED] investigation included interviews of Mother, Father and [REDACTED] as well as communications from both parents and a communication with Sarah Revis, MD. Both parents submitted miscellaneous documents and Mother submitted a summary from [REDACTED] play therapist. Mr. [REDACTED] did **NOT** receive a copy of Ms. [REDACTED] report regarding therapy sessions with [REDACTED] prior to releasing his investigation report.

Mr. [REDACTED] observed some of the same concerning behaviors as identified by Ms. [REDACTED] Attorney [REDACTED] correctly highlights some of these observations in written closing arguments. Mr. [REDACTED] testified that [REDACTED] quickly asked him to "not tell her dad" about the issues discussed during [REDACTED] interview. Mr. [REDACTED] report stated that [REDACTED] spoke of discipline techniques at her father's residence in unpleasant terms." (Exh. 11, pg. 7) Mr. [REDACTED] confirmed this statement through his testimony and added what Stella described to him, in private, that occurs at Father's residence was disturbing. Mr. [REDACTED] also testified that [REDACTED] reported to him her dad called her names and that Father admitted to calling [REDACTED] a brat.

Although Mr. [REDACTED] made recommendations, attorney [REDACTED] argues that through his cross examination, it was made abundantly clear that he (Mr. [REDACTED] did not conduct a thorough investigation. By way of illustration, but not limitation, he did not speak with the child's therapist that she had been seeing for a significant period of time. Mr. [REDACTED] was appointed on November 18, 2021; however, he did not make contact with [REDACTED] therapist until March 11, 2022 (*See Exh. 12, pg. 10*). [REDACTED] therapist informed Mr. [REDACTED] on March 15th that she would email a report to him and the parties on March 17th. Attorney [REDACTED] argues that Mr. [REDACTED] ignored this and issued his report on March 15th before receiving the report from Ms. [REDACTED] or speaking with her one time. Mr. [REDACTED] read one report from Ms. [REDACTED] misinterpreted her

recommended treatment plan and inserted his interpretation of the same in his report, and acknowledged this while testifying. Mr. [REDACTED] spent very little time with the parties, the child, and other individuals that could have provided him with valuable and relevant data for his report.

Attorney [REDACTED] argues that Mr. [REDACTED] report and recommendations should be given very little weight, if any, when the court determines what is in this child's best interest. Moreover, attorney [REDACTED] argues that Mr. [REDACTED] did not conduct a domestic violence screening. Had he done so, he would have recognized that having Mother and Father sit next to each other on a couch for their one meeting with him was extremely uncomfortable for Mother as she was not able to fully express herself due to her fears of Father's retaliation (primarily associated with how he would treat [REDACTED]). Finally, attorney [REDACTED] argues that a thorough review of Mr. [REDACTED] cross examination will support Mother's conclusion that his recommendations should be discarded.

While attorney [REDACTED] raises valid concerns, Mr. [REDACTED] testified that he was required to complete the investigation in a timely manner which lead him to submitting his report prior to receiving Ms. [REDACTED] report. It does not appear that Mr. [REDACTED] intentionally tried to avoid having Ms. [REDACTED] report prior to making his recommendation. However, Ms. [REDACTED] report is crucial for evaluating and understanding the significant negative impact the culmination of events has had on [REDACTED].

Mr. [REDACTED] Report recommended the following:

1. "Parenting time for Mr. [REDACTED] should remain as the parents reported to this evaluator: He has parenting time during Week 1 beginning Sunday at 6:00 PM until Wednesday school drop off, and during Week 2 after he gets off work on Friday, which is approximately 8:30 PM, until Wednesday school drop off.
2. Holiday parenting time should follow the Court's Standard Order as it relates to holidays. Other arrangements can be by agreement.
3. The parents should utilize Our Family Wizard for communication, including the Tone Meter function. A subscription to the service includes many other features that can be explored on the company's website: ourfamilywizard.com
4. Ms. [REDACTED] and Mr. [REDACTED] should pursue [REDACTED] beginning EMDR therapy. Her existing therapy should also continue.
5. Mr. and [REDACTED] should follow the advice of the pediatrician and have a pulmonary function [REDACTED]. Ideally, the parents would together attend appointments that review [REDACTED] active airway disease. This would afford them the opportunity of

hearing the same information at the same time, and the ability to ask questions in each other's presence.

6. Ms. [REDACTED] should enter individual counseling. Some of her behaviors and concerns reflect what could be unaddressed trauma. Were she to heal such trauma through counseling, the relationship between her and Mr. [REDACTED] might be less of a trigger for her.

The Court should order Mr. and Ms. [REDACTED] to utilize the services of a parenting coordinator, ideally [REDACTED] since she is already familiar with the family."

Based on Mr. [REDACTED] recommendations, Father subsequently filed a Motion requesting the Court to adopt the parenting recommendations of [REDACTED]

As stated in Mr. [REDACTED] written closing arguments, Mother disagrees with Mr. [REDACTED] recommendations and requests the Court to do the following:

"Mother's Proposed Order"

A. Parenting Time

- a. The testimony and evidence presented at trial support Mother's wishes, which are in [REDACTED] best interest, for the Court to modify the parenting time schedule as follows: Father to have parenting time every Tuesday from 4:00 pm to 6:00 pm and every other Saturday from 10am (or after scheduled activity Saturday morning) until Sunday at 6:00 pm; and for Mother to have parenting time at all other times.
- b. [REDACTED] has been diagnosed with PTSD and Separation Anxiety Disorder. Father is the only trigger for the trauma and anxiety [REDACTED] experiences. The reduction of Father's parenting time will reduce the triggers, hence reducing [REDACTED] anxiety and symptoms associated with PTSD and Anxiety. Reducing [REDACTED] anxiety and symptoms associated with PTSD are in the child's best interest. Mother believes the aforementioned parenting time schedule is in the child's best interest, is not left open to interpretation and manipulation, and will reduce the conflict between the parties.
- c. Mother further requests an Order stating the following:
 - (1) The minor child shall be permitted to have access to her phone during Father's parenting time and shall not be prohibited from using her phone to have reasonable

communication (phone and text) with both parents regardless of where she is physically located.

- (2) Mother requests an Order that provides clear language regarding how the parties will communicate, the topics of discussion, and the exclusion of disparaging comments. Mother supports the continued use of Our Family Wizard ("OFW") as the only method of communication (absent emergencies). Mother believes less interaction between the parents will insulate their daughter from their inability to communicate effectively and will decrease the anxiety the child suffers.
- (3) Finally, Mother believes it is imperative for Father to be Ordered to follow the recommendations of [REDACTED] medical and therapeutic providers regarding her medical and emotional needs."

Mother believes the aforementioned modifications are in the child's best interest and requests the court to adopt them.

Mother's Argument Regarding Parenting Coordination

Mother opposes Father's request to appoint a Parenting Coordinator (PC). If the Court grants Father's Motion to Appoint a PC over Mother's objection, Mother opposes the appointment of [REDACTED] to serve as the PC. Mother believes the appointment of a PC, or [REDACTED] as the PC, would not be in the best interest of the child for the following reasons:

- (1) Mother believes there is a conflict of interest for [REDACTED] to serve in the role as a PC due to her recent role as the parents' "coach" and/or "co-parenting counselor." Furthermore, as explained by Father's counsel, Ms. [REDACTED] is not willing to act as a PC if one of the parties does not agree to the same. Additionally, Father testified he has been seeing Ms. [REDACTED] as his personal therapist/counselor for the past several months, which also creates a conflict for her to transition into the neutral role of PC.
- (2) Mother believes the utilization of any PC will increase the tension between the parties and Father will abuse, manipulate, and circumvent the intent of the process to undermine the decisions made by Mother as the child's sole legal custodian and residential parent.
- (3) If the Court grants Father's Motion to Appoint a PC over Mother's objection, Mother proposes the following:
 - a. The PC is an attorney;
 - b. in both households; and

- c. The PC would not have the authority to overturn any decision made by Mother but should have the authority to hold both parents accountable for follow through on decisions made with the advice of professionals.

FATHER'S ARGUMENT FOR A PARENTING COORDINATOR

Father filed a motion requesting the appointment of a parenting coordinator. His reasons for this request are that he feels, if utilized properly, a parenting coordinator could assist the parents in coming to a resolution on issues before the discussions escalate and become unproductive. He testified that he is engaging in therapy with their prior PC and if that is a conflict of interest, he is accepting of a different PC appointment.

CONCLUSIONS OF LAW

CONTEMPT

The law applicable to the issue of contempt is found in R.C. 2705.02, which reads in part, as follows:

A person guilty of any of the following acts may be punished as for a contempt: (A) Disobedience of, or resistance to, a lawful writ, process, order, rule, judgment, or command of a court or an officer...

The moving party must show only a failure of compliance with a valid court order. Proof of willful noncompliance or intent to violate a court order is not a prerequisite to finding of contempt. The burden of proving the defense of inability to comply is on the person asserting it. See *Pugh v. Pugh*, 15 OS (3d) 136, 15 01W 285, 472 N.E. (2d) 1085 (1984).

If the Court makes a finding of contempt, the Court may impose any of the following penalties pursuant to O.R.C. 2705.05:

(1) For a first offense, a fine of not more than \$250.00, a definite term of imprisonment of not more than thirty days, or both;

(2) For a second offense, a fine of not more than \$500.00, a definite term of imprisonment of not more than sixty days, or both;

(3) For a third or subsequent offense, a fine of not more than \$1,000.00, a definite term of imprisonment of not more than ninety days, or both.

To support a contempt finding, the moving party must establish by clear and convincing evidence that valid court order exists, that the offending party had knowledge of the order, and that the offending party violated such order *Sparks v. Sparks*, 201 [REDACTED] "Clear and convincing evidence means that degree of proof that will provide in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established," *Flynn v. Flynn* [REDACTED]

4714. The movant need not prove Defendant's failure to comply was purposeful, willing, or intentional. Pugh v. Pugh [REDACTED]

The case at bar is civil in nature, as opposed to a criminal proceeding. In civil contempt the contemnor is said to carry the keys of his prison in his own pocket since he will be freed if he agrees to do as ordered. Pugh, supra, 15 Ohio St.3d at 139, 15 01 W at 287, 472 N.E.2d at 1088 (quoting Brown v Executive 200, Inc. [1980], 64 Ohio St.2d 250, 253, 18 O.O.3d 446, 448-449, 416 N.13.2d 610, 612-613)." S/cite v. K//bane (1980)61 Ohio St.2d 201, 15 O.O.3d 221.

MODIFICATION OF PARENTING TIME

In determining whether to grant parenting time to a parent and in determining other parenting time matters, the court shall consider the factors set forth in O.R.C. 3109.051 (D) (1) through [REDACTED]

- (1) The prior interaction and interrelationships of the child with the child's parents, siblings, and other persons related by consanguinity or affinity, and with the person who requested companionship or visitation if that person is not a parent, sibling, or relative of the child;
- (2) The geographical location of the residence of each parent and the distance between those residences, and if the person is not a parent, the geographical location of that person's residence and the distance between that person's residence and the child's residence;
- (3) The child's and parents' available time, including, but not limited to, each parent's employment schedule, the child's school schedule, and the child's and the parents' holiday and vacation schedule;
- (4) The age of the child;
- (5) The child's adjustment to home, school, and community;
- (6) If the court has interviewed the child in chambers, pursuant to division (C) of this section, regarding the wishes and concerns of the child as to parenting time by the parent who is not the residential parent or companionship or visitation by the grandparent, relative, or other person who requested companionship or visitation, as to a specific parenting time or visitation schedule, or as to other parenting time or visitation matters, the wishes and concerns of the child, as expressed to the court;
- (7) The health and safety of the child;
- (8) The amount of time that will be available for the child to spend with siblings;
- (9) The mental and physical health of all parties;

(10) Each parent's willingness to reschedule missed parenting time and to facilitate the other parent's parenting time rights, and with respect to a person who requested companionship or visitation, the willingness of that person to reschedule missed visitation;

(11) In relation to parenting time, whether either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

(12) In relation to requested companionship or visitation by a person other than a parent, whether the person previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether the person, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication; whether either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent previously has been convicted of an offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that the person has acted in a manner resulting in a child being an abused child or a neglected child;

(13) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;

(14) Whether either parent has established a residence or is planning to establish a residence outside this state;

(15) In relation to requested companionship or visitation by a person other than a parent, the wishes and concerns of the child's parents, as expressed by them to the court;

(16) Any other factor in the best interest of the child.

PARENTING COORDINATION

The appointment of a Parenting Coordinator is governed by Local Rule 2.11 of this Court. Parenting coordination is a child-focused dispute resolution process to assist parties in implementing orders involving parental rights and parenting time. The Court may order parenting coordination except to determine the following:

- (A) Whether to grant, to modify, or to terminate a protection order;
- (B) The terms and conditions of a protection order;

- (C) The penalty for violation of a protection order;
- (D) Changes in the designation of the primary residential parent or legal guardian;
- (E) Changes in the primary placement of a child.

Pursuant to Local Rule [REDACTED]

upon written motion of one or both parties, when one or more of the following factors are present:

The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need ongoing assistance;

There is a history of extreme or ongoing parental conflict that previous litigation or other interventions has not resolved and from which the child of the parties is adversely affected;

The parties have a child whose parenting time schedule requires frequent adjustments, specified in an Order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without Court intervention;

The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an Order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without Court intervention;

One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or to make adjustments in their parenting time schedule without assistance, even when minor in nature;

Any other factor the Court determines.

BRIEF FOCUSED INVESTIGATION

The requirements for a Brief Focused Investigation are dictated by Local Rule 2.3 of this Court. The Brief Focused Investigation is an evaluation to be completed in approximately six weeks, and consists of the following components under Local Rule 2.3: One joint interview with both parents; One interview with each child within the family unit; and obtainment of pertinent collateral information.

DECISION

The issues before the Court are whether Father should be found in contempt for not transporting Stella home after the February 9, 2022 snow day and for making disparaging remarks toward Mother. The other issues before the Court are whether the Court should adopt the parenting time schedule as outlined in the parties' Agreed Entry; should the Court adopt Mother's suggested parenting time schedule; should the Court adopt Father's suggested parenting time schedule or should the Court modify the parenting time schedule. Finally, should the Court appoint a Parenting Coordinator.

CONTEMPT FOR NOT TRANSPORTING STELLA HOME AFTER THE SNOW DAY

It is undisputed that Father did not transport Stella home to Mother from the snow day. It is also undisputed that the Agreed Entry of parenting time does not address this specific situation. Text messages between parents show that parents both agreed to allow Stella to stay with Father during the snow day for multiple reasons. Both parents interpreted the transportation issue differently and confusion ensued due to the fact that it was a snow day. Parents could have done a better job working together to resolve the issue without malice but neither parent appears to have knowingly violated a court order. Because the transportation language of the Agreed Entry did not address the issue of transportation on a snow day, it was subject to interpretation and caused confusion between the parents.

Having failed to establish the contemptuous acts on the part of Father as alleged in Mother's *Motion For Contempt* filed on February 11, 2021 by the requisite clear and convincing standard, the *Motion For Contempt* filed by Mother on February 11, 2022 is found not well taken and *DENIED* in regard to the transportation issue.

CONTEMPT FOR DISPARAGING REMARKS

It is undisputed that Father made multiple disparaging remarks toward Mother through text messages. Father admits to his actions, expressed remorse and is embarrassed. He also expressed insight into how this behavior also has a negative impact on Stella. Father's remorsefulness and embarrassment appears sincere and he said he is committed to doing better going forward. However, Father shall be held accountable due the nature and voluminous amount of disparaging text messages he sent to Mother.

Having established the contemptuous acts on the part of Father as alleged in Mother's *Motion For Contempt* filed on February 11, 2021 by the requisite clear and convincing standard,

the *Motion For Contempt* filed on February 11, 2021 is well-taken and *GRANTED*. Father, [REDACTED] is hereby found to be in Contempt of Court for making disparaging remarks to Mother.

Father, [REDACTED] is hereby fined [REDACTED] Honorable Judge [REDACTED] for imposition of sentencing and on or September 13, 2022, at 1:30pm in front of the Honorable Judge [REDACTED] in Court Room 2-25 at the Hamilton County Domestic Relations Court, 800 Broadway Cincinnati, Ohio. Father may purge himself of the contempt by paying the \$250.00 fine on or before September 13, 2022 by 1:30pm.

Father, [REDACTED] must appear in court and provide proof of compliance with the orders herein. Failure to appear on the date of imposition with appropriate proof of his purge may result in Father's incarceration without further notice and/or the issuance of a warrant for Defendant's arrest.

MODIFICATION OF PARENTING TIME

In determining whether to grant parenting time to a parent and in determining other parenting time matters, the court shall consider the factors set forth in O.R.C. 3109.051 (D) (1) through [REDACTED]

1) The prior interaction and interrelationships of the child with the child's parents, siblings, and other persons related by consanguinity or affinity, and with the person who requested companionship or visitation if that person is not a parent, sibling, or relative of the child:

Mother and [REDACTED] have a close, loving, and appropriate relationship. Mother, through her testimony, that was not contradicted, illustrated to the court, that she is attentive to [REDACTED] social, educational, medical and therapeutic needs. The child's therapist, Ms. [REDACTED] LPCC, confirmed Mother's relationship with the child was appropriate, loving, and supportive.

Father has a complicated relationship with the [REDACTED] Father testified that he and [REDACTED] enjoy their time together, and have fun exploring the outdoors and wrestling; however, [REDACTED] continues to experience significant anxiety leading up to, and immediately following, the time she spends with Father. [REDACTED] therapist testified that Father is now the sole source of the child's anxiety. Ms. [REDACTED] acknowledged Father denies nearly everything [REDACTED] consistently, and voluntarily, reports to her. For example, Father emailed Ms. [REDACTED] March of 2022 that [REDACTED] knows I would never hurt her." In response, Ms. [REDACTED] said: "That is simply not true. [REDACTED] very much worries that if she says or does something her dad does not like, he will get angry with her and possibly physically hurt her since in the past (Father) has hurt her, Kimber (the dog) and [REDACTED] *see also Exhibit 5*) Ms. [REDACTED] report, supported by her testimony at trial, that [REDACTED] routinely demonstrates anxiety while discussing her dad during session as evidenced by her saying "don't tell my dad" in a panicky voice, crawling around on the floor like an animal, trying to change the subject, using a baby voice, and fidgeting more than usual." (*Id.*)

Ms. [REDACTED] testified that she is concerned that Father continues to undermine the symptoms and cause [REDACTED] life. Father's lack of support in [REDACTED] therapy, and undermining of Ms. [REDACTED] commendations, directly impact her relationship with Father.

[REDACTED] also testified that [REDACTED] quickly asked him to "not tell her dad" about the issues discussed during [REDACTED]'s interview. Mr. [REDACTED] report stated that [REDACTED] spoke of discipline techniques at her father's residence in unpleasant terms." (Exh. 11, pg. 7) Mr. [REDACTED] confirmed this statement through his testimony and added when [REDACTED] described to him, in private, that occurs at Father's residence was disturbing. Mr. [REDACTED] also testified [REDACTED] reported to him her dad called her names and that Father admitted to calling [REDACTED] at.

It is important to note that Father denies the allegations reported by [REDACTED] s. [REDACTED] He denies that he was physically violent toward [REDACTED] denies that he [REDACTED] shoot a raccoon, denies waking up [REDACTED] in the nude, and he denies that he physically harmed [REDACTED] However, even if these statements by [REDACTED] about Father aren't true, [REDACTED] still exhibits significant mental distress about her father to the therapist that continues to need to be addressed.

2)The geographical location of the residence of each parent and the distance between those residences, and if the person is not a parent, the geographical location of that person's residence and the distance between that person's residence and the child's residence:

Mother and Father live approximately 35 miles away from each other (approx. 40–45-minute drive without traffic).

3)The child's and parents' available time, including, but not limited to, each parent's employment schedule, the child's school schedule, and the child's and the parents' holiday and vacation schedule:

Mother is self-employed with a flexible work schedule. Mother has been primarily responsible for transporting the child to all medical, therapeutic, and extracurricular activities. Father works three days per week, from 7am to approximately 7:30pm as an ICU nurse. The child attends school at [REDACTED] School. School begins at 9:00am and ends at 3:30pm.

4)The age of the child:

[REDACTED] is eight (8) years old.

5)The child's adjustment to home, school, and community:

Father's written closing arguments correctly identifies Mother's numerous relocations. Going back to May of 2018, Mother has maintained five separate residences for herself and

such as soccer, and she has adjusted well and appropriately to Mother's new residence. The child enjoys her school and the community.

█████ currently shares time between her Mother's residence and Father's residence pursuant to the parenting time schedule outlined in the February 8, 2021 Agreed Entry. Mother recently relocated to █████. Her prior residence was approximately two (2) miles away from her current residence and she remains in the █████ School District.

Father resides at █████. Mother lives four (4) miles away from the child's school (approx. five (5) minute drive); Father lives approximately 35 miles (approx. █████).

6) If the court has interviewed the child in chambers, pursuant to division (C) of this section, regarding the wishes and concerns of the child as to parenting time by the parent who is not the residential parent or companionship or visitation by the grandparent, relative, or other person who requested companionship or visitation, as to a specific parenting time or visitation schedule, or as to other parenting time or visitation matters, the wishes and concerns of the child, as expressed to the court:

N/A

7) The health and safety of the child:

There was no evidence or testimony regarding the health or safety of the child while in Mother's care except that Father suggests that Mother's own anxiety might be contributing to █████ anxiety, which is a possibility. Mr. █████ recommends that Mother engage in therapy to address her untreated past trauma.

The health and safety of the child while in Father's care, to the contrary, is alarming. █████ has been diagnosed with Post Traumatic Stress Disorder (PTSD) and Separation Anxiety Disorder. █████ firmly believes the statements █████ has made. (*Id.*) Furthermore, Ms. █████ the ideal approach is to reduce the sources of stress in her life (Father), which will in turn prevent the need for her high level of toxic stress responses and may prevent and counteract the long-term effects of her adverse childhood experiences (ACE's). (*Id.*) Mother testified that she is requesting this Court to Order a significant reduction in Father's parenting time, which will inherently reduce the only trigger she has that increases her anxiety, so █████ is able to progress through therapy (without taking two steps forward (while with Mother) and subsequently taking three steps backward (after being with Father), and eventually qualify for EMDR therapy that will provide █████ with the ability to properly heal from the symptoms and emotional stress she has faced while in Father's care.

8) The amount of time that will be available for the child to spend with siblings:

N/A

9)The mental and physical health of all parties:

There was no evidence that suggested any concerns for Mother's mental and physical health other than testimony that Mother has past trauma of her own and that if her past trauma is unresolved, she might have anxiety issues of her own that she needs to be aware of so as not to cause additional anxiety for [REDACTED]

There was no testimony or evidence provided to suggest any concerns with Father's physical health; however, the evidence and testimony presented at trial did illustrate concerns with Father's mental health based on his behaviors. Father paints a picture of his relationship with [REDACTED] being healthy and "fun," but the evidence does not support the same. Father acknowledges his support for [REDACTED] to continue with therapy and admitted the need for her to do so; however, the evidence (See text messages in Ex. 4, pgs. 8-13) shows the contrary. Father continues to undermine [REDACTED] therapist, accuses her of being biased, and in lieu of supporting [REDACTED] therapeutic efforts, he is combative with the therapist working to help [REDACTED]

To the best of Mother's knowledge, Father has not undergone any recent psychological evaluations, but it is concerning that Father seems to think everything is "fine" with [REDACTED] despite the disclosures she has made to neutral parties, including her therapist and [REDACTED]. It is Mother's opinion, based on her experience and history with Father, that until Father works on himself and allows [REDACTED] space (less parenting time), [REDACTED] therapeutic endeavors will be thwarted. It should be noted though that Father stated that he is engaging in therapy. He also is requesting that a Parenting Coordinator be appointed to assist the parties with parenting issues in an effort to resolve them before they escalate.

[REDACTED] parent's willingness to reschedule missed parenting time and to facilitate the other parent's parenting time rights, and with respect to a person who requested companionship or visitation, the willingness of that person to reschedule missed visitation:

Mother and Father testified to Mother's willingness to be flexible as it relates to the parenting time schedule. For example, despite a court order that required Father to return the child to Mother's residence at 9am on a school day, when there was inclement weather, Mother agreed to allow the child to stay with Father for an extended period of time. Father also demonstrated flexibility by allowing [REDACTED] to stay with him on the snow day which allowed Mother to tend to her employment. However, due to the tense nature of Mother and Father's relationship, they were unable to resolve their transportation issue amicably. Both parents feel the other parent unnecessarily creates problems. Due to the tone of exchanged text messages, it is easier to believe that Father is the difficult party.

11)In relation to parenting time, whether either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child:

Neither parent has been convicted of or plead guilty to any criminal offense involving any act that result in a child being an abused or neglected child. Warren County Children's Services investigated Father and [REDACTED] and closed the case.

The child's therapists, [REDACTED] LPCC, testified that the events associated with the DV CPO traumatized the child at the time of the incidents, and continues to be brought up by the child voluntarily and spontaneously. Ms. F [REDACTED] acknowledged that Father denied the allegations, but adamantly stated she believed her client [REDACTED] did not find Father to be credible, and by way of necessity has had to help the child deal with the trauma she has faced, and continues to face, through the child's therapy.

12) In relation to requested companionship or visitation by a person other than a parent, whether the person previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether the person, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication; whether either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent previously has been convicted of an offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that the person has acted in a manner resulting in a child being an abused child or a neglected child:

N/A

[REDACTED] the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court

There was no testimony to suggest either parent continuously and willfully denies the other parent's right to parenting time.

14) Whether either parent has established a residence or is planning to establish a residence outside this state:

N/A

15) In relation to requested companionship or visitation by a person other than a parent, the wishes and concerns of the child's parents, as expressed by them to the court;

N/A

16) Any other factor in the best interest of the child:

It is apparent that [REDACTED] is suffering from emotional distress as supported by Ms. [REDACTED] report and testimony. She also testified that [REDACTED] source of anxiety is Father. M [REDACTED]

supported this assertion with many examples of [REDACTED] behavior and comments. Mr. [REDACTED] also testified about comments [REDACTED] made that suggest a level of fear she has of Father.

Father has demonstrated a lack of respect for Mother and her parenting of [REDACTED]. This is demonstrated through Father's text messages. Father states that he now recognizes that he has been inappropriate in his communications with Mother and expressed remorse and regret. Father stated that he is engaging in therapy and hopes to improve his relationship with Mother so that they can co-parent without issues escalating. Father appears to be sincere.

Both parents stated that their communications have drastically improved since they started using Our Family Wizard with a tone meter which does indicate the possibility of improvement going forward.

Regarding the issue of whether to appoint a Parenting Coordinator, Mother believes that if the parents are ordered to engage in utilizing a PC, the conflict will increase, the conflict will negatively affect [REDACTED] and her therapeutic process will again suffer as a result. However, Father believes that a Parenting Coordinator will assist the parents in navigating parenting disagreements that could be resolved before escalating. The parents have utilized a Parenting Coordinator in the past but Mother felt that it was a method by which Father could agitate Mother by manipulating the PC.

While Mr. [REDACTED] made seven (7) recommendations for the parents, he issued his report without having information from [REDACTED] therapist, Ms. [REDACTED]. It should also be noted that while Ms. [REDACTED] recommends reducing [REDACTED] anxiety triggers (time with Father) she did not suggest any type of parenting plan to address how much to reduce [REDACTED] time with Father.

PARENTING MODIFICATION

It is apparent that both parents love their daughter, [REDACTED] and state that they want the best for her. Mother, as the residential parent and legal custodian, is devoted to [REDACTED] and ensures that [REDACTED] physical, emotional and educational needs are met.

The Court is concerned by the nature of the text messages Father sent Mother. They provide insight to the possibility of Father having a temper or anger issues which then lends credibility to [REDACTED] reports about how Father often talks to her and why she states she is afraid. While Father appears sincerely remorseful and sincere in his desire to change and improve. He is now engaging in therapy and demonstrating insight about his behaviors. [REDACTED] therapist does not recommend a specific parenting time schedule. [REDACTED] therapist recommends to reduce [REDACTED] anxiety triggers and states Father is [REDACTED] only trigger.

Based upon the testimony and evidence submitted, and in the best interests of the child, Father's *Motion To Modify Parenting Time* (and adopt the recommendations of Mr. [REDACTED] and

Related Parenting Provisions For Benefit of Parties' Minor Child and Motion For Parenting coordination are DENIED.

The Court declines to implement all of the recommendations of Mr. [REDACTED] LSW because he did not have Ms. [REDACTED] therapeutic report prior to making his recommendations.

Based upon the testimony and evidence submitted, and in the best interests of the child, Mother's *Motion to Modify Parenting Time* is GRANTED. However, the Court declines to implement Mother's proposed parenting time.

The Court gives significant weight to Ms. [REDACTED] recommendation to reduce [REDACTED] anxiety triggers, but does not find that eliminating Father's overnight visits are in the best interests of the child and hereby modifies the parenting time as follows: Unless parents mutually agree otherwise, they shall adhere to the following schedule for the school year beginning immediately.

- 1) Father is to have parenting time during Week 1 every Tuesday from [REDACTED] and during Week 2 Friday from 8:30 pm until Sunday at 6:00 pm; and for Mother to have parenting time at all other times.
- 2) Parents shall request monthly progress reports from Ms. [REDACTED] to monitor [REDACTED] progress in therapy addressing the issue about Father being a trigger for [REDACTED] anxiety.
- 3) Parents shall work together to expand Father's parenting time as [REDACTED] anxiety about Father improves.
- 4) Parents shall cooperate with [REDACTED] therapeutic services and follow recommendations of Ms. [REDACTED]
- 5) Holiday parenting time should follow the Court's Standard Order as it relates to holidays. Other arrangements can be by agreement.
- 6) The parents shall utilize Our Family Wizard for communication, including the Tone Meter function. A subscription to the service includes many other features that can be explored on the company's website: ourfamilywizard.com
- 7) Parties shall only communicate via Our Family Wizard unless there is an emergency requiring immediate attention. Parents shall respond to Our Family Wizard communications within 24 hours. Communications shall be limited to issues about [REDACTED] and shall not include any disparaging comments.
- 8) Parents shall pursue [REDACTED] beginning EMDR therapy. Her existing therapy should also continue.

- 9) Parents shall follow the advice of the pediatrician and have a pulmonary function test for [REDACTED]. Ideally, the parents would together attend appointments that review [REDACTED] and obstructive airway disease. This would afford them the opportunity of hearing the same information at the same time, and the ability to ask questions in each other's presence.
- 10) Mother shall enter individual counseling. Some of her behaviors and concerns reflect what could be unaddressed trauma. Were she to heal such trauma through counseling, the relationship between her and Mr. [REDACTED] might be less of a trigger for her.
- 11) Father shall continue to engage in therapeutic services.
- 12) [REDACTED] shall be permitted to have access to her phone during Father's parenting time and shall not be prohibited from using her phone to have reasonable communication (phone and text) with both parents regardless of where she is physically located.
- 13) Currently the summer schedule and all aspects of the Agreed Entry of record with the Court as of February 8, 2021 shall remain in tact if not modified above. This allows approximately nine (9) months for Father and [REDACTED] to demonstrate progress and a reduction in [REDACTED] anxiety.

PARENTING COORDINATION

Taking into account the factors outlined in the Local Rule [REDACTED] parents to engage a Parenting Coordinator at this time. With Father's recent realizations that many of his behaviors toward Mother have not been appropriate and his realizations that this behavior also negatively impacted [REDACTED] and the fact that a prior Parenting Coordinator has been tried, it is time to give the parents an opportunity to demonstrate their ability to cooperate and to work together for [REDACTED] best interests.

Copies of this Decision have been mailed to the parties or their counsel. Objections to this Magistrate's Decision must be filed within fourteen (14) days of the filing date of the Magistrate's Decision with a copy served on the opposing side.

[REDACTED]

[REDACTED]

[REDACTED] ati, OH. 45202

[REDACTED], OH. 45215

Entry Adopting Magistrate's Decision

Pursuant of Ohio Civil Rule 53, the Court hereby adopts the Magistrate's Decision. However, pursuant to that rule, the timely filing and serving of objections to the Magistrate's Decision, or the timely filing and serving of any civil post-judgment motions pursuant to Appellate Rule 4, shall operate as an automatic stay of execution of the judgment until the Court disposes of such objections or motions by vacating, modifying, or affirming same. **A PARTY SHALL NOT ASSIGN AS ERROR ON APPEAL THE COURT'S ADOPTION OF THE MAGISTRATE'S DECISION UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THE DECISION AS REQUIRED BY OHIO CIVIL RULE 53(D)(3)(b).**

