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| NORTH CAROLINA  \_\_\_\_\_\_\_COUNTY      \_\_\_\_\_\_\_\_\_                           PLAINTIFF,                           V.    \_\_\_\_\_\_\_\_\_                           DEFENDANT. | )  )  )  )  )  )  )  )  ) | IN THE GENERAL COURT OF JUSTICE  DISTRICT COURT DIVISION  \_\_\_\_\_\_ CVD \_\_\_\_\_\_       |  |  |  | | --- | --- | --- | |  | Assigned Judge:\_\_\_\_\_\_\_ |  |       **PERMANENT CHILD CUSTODY AND PERMANENT CHILD SUPPORT ORDER** |

            THIS CAUSE coming on to be heard and being heard on the \_\_\_ and \_\_\_ days of \_\_\_\_\_, before the Honorable District Court Judge \_\_\_\_\_presiding in \_\_\_\_County Civil District Court, Domestic Division, upon a Complaint and Counterclaim for Child Custody and Child Support;

AND IT APPEARING TO THE COURT that the Plaintiff was present and was represented by \_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_ Law Firm, and the Defendant was present and represented by \_\_\_\_\_\_\_. of the law firm\_\_\_\_\_\_\_\_.;

            AND THE COURT, having reviewed the comments of the parties and witnesses and received the testimony and evidence in open court, makes and enters the following:

**FINDINGS OF FACT**

1.                  Plaintiff and Defendant are citizens and residents of\_\_\_\_\_\_\_ County, North Carolina.

2.                  Plaintiff and Defendant were lawfully married to each other on or about \_\_\_\_\_\_\_\_\_.

3.                  Plaintiff and Defendant separated on or about, \_\_\_\_\_\_, and have lived continuously separate and apart since that date, and intend to live continuously separate and apart. The parties are now divorced.

4.                  There were two children born of the marriage to the parties, to wit: \_\_\_\_\_\_, born , \_\_\_\_, and\_\_\_\_\_\_, born \_\_\_\_\_

5.                  Plaintiff is currently employed full-time with\_\_\_\_\_\_. and earns $\_\_\_\_\_\_\_ per month in gross monthly income.

6.                  Defendant is currently employed on a part-time basis with \_\_\_\_ and earns $\_\_\_\_ per month in gross monthly income which was the amount she placed on her financial affidavit. The court is not finding a voluntary depression of income in bad faith and therefore there will be no imputation of income to Defendant.

7.                  Both parties are currently in good health and capable of working full-time to support the minor children.

8.                  Defendant pays for health and dental insurance for the minor children of the parties in the amount of$\_\_\_\_\_ per month and the parties incur work related before and after school care for the minor children in the amount of $\_\_\_\_\_\_ per month, which has been paid by Defendant.

9.                  Defendant incurs $\_\_\_\_\_ per month in private school expenses which the court finds as an extraordinary expense which both parties testified was in the best interests of the minor children. Both parties further testified that they want to children to attend private school.

10.              Plaintiff has an average of \_\_\_\_\_ overnights per year and Defendant has an average of \_\_\_\_\_\_ overnights per year, per child.

11.              Plaintiff is capable of paying the amount of monthly support as set forth in this Order.

12.              Child support is appropriate under Worksheet B of the North Carolina Child Support Guidelines.

13.              This Court has jurisdiction over the issue of custody of the parties\_\_\_\_ minor children pursuant to the provisions of G.S. Â§ 50A-201 in that North Carolina is the home state of the parties\_\_\_\_ minor children and the children have resided in the State of North Carolina for more than six months next preceding the filing of the pleadings initiating this cause of action.

14.              North Carolina is not an inconvenient forum nor is any other state a more appropriate forum within which to determine the issue of custody of the parties\_\_\_\_ children.

15.              Shared joint legal and physical custody is appropriate for the parties and in the best interests of the minor children.

16.              Prior to the date of separation, Defendant was the primary caretaker of the minor children while the parties lived together.

17.              During the marriage on Tuesdays and Thursdays, Plaintiff took care of the children during the time in which Defendant worked at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as a floating pharmacist.

18.              Plaintiff was involved in an extramarital affair during the marriage with \_\_\_\_\_\_\_\_\_\_\_, who also testified.

19.              Since the date of separation through the time of divorce, Plaintiff did not have the children around \_\_\_\_\_\_\_\_\_\_\_\_ due to his desire to spend time alone with the children and care for their moral upbringing. Plaintiff did not bring the children into contact again with \_\_\_\_\_\_\_\_\_\_ until after the date of divorce. Since the date of divorce, Plaintiff and \_\_\_\_\_\_\_\_ have spent time with the children and the children understand that \_\_\_\_\_\_\_\_\_\_ is the Plaintiff\_\_\_\_\_s girlfriend.

20.              On several occasions since the date of divorce, Defendant and the minor children stayed overnight at \_\_\_\_\_\_\_\_\_ \_\_\_\_s residence and once in a hotel room together. However, Plaintiff testified that he did not sleep in the same room with \_\_\_\_\_\_\_\_\_ on any of these occasions.

21.              \_\_\_\_\_\_\_\_\_ has a minor child, \_\_\_\_\_, who is two (2) years old. The minor child \_\_\_\_\_\_ apparently gets along with the parties minor children and the parties\_\_\_\_ minor children enjoy spending time with \_\_\_\_\_\_\_, asking to play with her at times.

22.              Testimony was provided that a computer Plaintiff was provided through his former employer turned up with pornography on two (2) separate occasions, however the witnesses both testified that Plaintiff approached them about the problem. Plaintiff testified that he allowed the teenagers in the ministry he was involved in to utilize the computer and that when the computer eventually was lost or stolen that Plaintiff paid for the same because he felt responsible for the computer being lost or stolen.

23.              Testimony was provided by Defendant that she traveled extensively to \_\_\_\_\_\_\_\_ and other destinations with the children and often with her friend \_\_\_\_\_\_\_. Defendant testified that in the last years of the marriage that Plaintiff did not accompany her and the children on these trips and believed that Plaintiff was spending time with \_\_\_\_\_\_\_ instead of traveling with Defendant and the minor children.   Plaintiff testified that he did not accompany Defendant and the children primarily due to work obligations, but also because of the deteriorating relationship between himself and Defendant. The parties disagreed on the reasoning why Defendant and Plaintiff did not travel together.

24.             Since the date of separation, Plaintiff has kept the children every Tuesday and Thursday after school. On those dates, Plaintiff feeds the children, bathes them, redresses them in the clothing that they wore that day and returns them to Defendant\_\_\_\_\_\_s home at 8:30 p.m., which is the children\_\_\_\_\_s bed time. It is in the best interests of the minor children that the children spend Tuesday and Thursday nights with Plaintiff instead of riding back to the Defendant\_\_\_\_s home at their bedtime.

25.             Since the date of separation, the parties have alternated Friday and Saturday overnight visitations with the minor children. This situation is in the best interests of the minor children.

26.              Since the date of separation, the parties each testified that they spent four (4) weeks each with the minor children during the children\_\_\_\_s time off school.

27.              Since the date of separation of the parties, Plaintiff has stepped up his involvement in the children\_\_\_s activities and lives and is therefore parenting equally with Defendant.

28.             Both parties testified positively about the other parties\_\_\_\_ parenting abilities and the manner in which they care for the minor children, except for two discipline issues. Plaintiff testified that Defendant spanks the minor child \_\_\_\_\_\_ in an amount that he did not agree with. Defendant testified that she has stopped using corporal punishment to the same degree on \_\_\_\_\_. Defendant testified that Plaintiff bungee corded \_\_\_\_\_ into her room and left her to go downstairs in a manner in which she did not agree with. Plaintiff testified that he did not leave the minor child, but sat outside the door while the child cried. Both parties agreed that disciplining the minor child Abby can be difficult and that both have been frustrated in the past.

29.              The Plaintiff, and his witnesses, testified about how he spends the time with the minor children when they are in his care and custody. The testimony concerning the Plaintiff\_\_\_\_s parenting was positive in the following manner:

a.                   Plaintiff is actively involved in the religious upbringing of the minor children. Plaintiff takes the children to church with him on Sundays at the church that he currently attends.

b.                  Plaintiff does devotions with the minor children and prays with them. Plaintiff\_\_\_\_s girlfriend, \_\_\_\_\_\_\_\_\_, also prays with the children and discusses bible versus with them in order to help the children learn about consequences to their behavior.

c.                   Plaintiff made cookies with the minor children and had the children do ministry to a nursing home on more than one occasion.

d.                  Plaintiff and \_\_\_\_\_\_\_\_ took the children to Washington, D.C. to learn about historical events and for a small vacation.

e.                   Plaintiff went with the children to \_\_\_\_\_\_\_\_\_\_\_ prior to the parties\_\_\_\_ separation.

f.                  Plaintiff takes the children to cook outs and get-togethers with family and friends. Plaintiff\_\_\_\_\_s sister testified that he and the minor children love and care for each other and that he is an attentive father. One of the parties\_\_\_\_\_ mutual friends and a church member with Defendant, also a relative of \_\_\_\_\_\_\_\_\_\_\_, testified that during an Easter egg hunt at her house that Plaintiff was attentive to the children and she wished her husband would show their own children the same care and devotion.

g.                   Plaintiff can adjust his work schedule to care for the children and has done so in the past to ensure that he can care for the minor children during the times that he has the children. In the rare event that Plaintiff is unable to personally retrieve the minor children from school, Plaintiff has arranged for Defendant or for a trusted family friend to retrieve the minor children.

h.                   Plaintiff shops for clothing for the minor children. Plaintiff testified to the likes and dislikes of each child regarding her choice of clothing.

i.                     Plaintiff has a separate room for the children and they have been allowed to decorate their room at Plaintiff\_\_\_\_\_\_s home. The children have learned that good behavior may merit them a new decoration for their room.

j.                    The children have a bedtime routine at Plaintiff\_\_\_\_\_s home.

k.                  When the Plaintiff prepares meals at his house for the minor children, the children play restaurant and one of the children takes the order of everyone else. Plaintiff prepares nutritious meals for the children. The children and Plaintiff all have conversations about their day during dinner and are sometimes joined by \_\_\_\_\_\_\_\_\_\_\_ and her daughter \_\_\_\_\_\_\_. Plaintiff is trying to teach the children manners around dinnertime.

l.                     Plaintiff bathes the children on a nightly basis when they are in his care.

m.                 Plaintiff testified to using time out for discipline in his home as well as other behavior modification techniques including discussing the children\_\_\_\_s behavior with them.

n.                   Plaintiff throws birthday parties for the minor children.

o.                  Plaintiff testified that Defendant is a good and devoted parent, capable of caring for the minor children. Plaintiff further testified that Defendant loves the minor children and the minor children love her.

p.                  Plaintiff believes that the parties communicate well with each other regarding the care and welfare of the minor children.

q.                  Plaintiff admitted into evidence many happy pictures of the children, himself, \_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_. These pictures showed the children enjoying their time with Plaintiff.

30.              The Defendant, and her witnesses, testified about how she spends the time with the minor children when they are in her care and custody. The testimony concerning the Defendant\_\_\_\_s parenting was positive in the following manner:

a.                   Defendant is actively involved in the religious upbringing of the minor children. Defendant takes the children to church with her on Sundays at the church that the parties attended, and where Plaintiff was employed, during their marriage.

b.                  Defendant does devotions with the minor children and prays with them. Defendant also dances to praise music with the children, which the children enjoy. Witnesses from the church testified that Defendant is a good and loving mother and takes her children to church activities and functions, including youth groups and Sunday school classes.

c.                   Defendant goes to the children\_\_\_\_\_s school functions and has participated in breakfast with the teachers and making crafts with students at the school.

d.                  Plaintiff and Defendant agreed for one of the children to be in counseling after the separation and both parties shared the expense of the same, although Defendant took the child to the majority of her appointments.

e.                   Defendant travels often with the children to the beach, to visit family in\_\_\_\_\_, and on other vacations to various destinations, including \_\_\_\_\_\_\_\_\_. Defendant often travels with a close family friend from church, \_\_\_\_\_and her family.

f.                    Mrs. \_\_\_\_\_\_\_\_\_ testified that Defendant is a good and loving parent and that their children spend time together and enjoy playing with each other. Defendant assisted Mrs. \_\_\_\_\_\_\_ in the adoption of her minor children and traveled to foreign countries to assist her. During the times that Defendant traveled with Mrs. \_\_\_\_\_\_\_\_\_, Plaintiff cared for the minor children per the parties\_\_\_\_\_\_ agreement and at the request of Defendant.

g.                   Defendant admitted many pictures of herself and the minor children into evidence. These pictures showed the children enjoying their time with Defendant.

h.                   Defendant\_\_\_\_\_\_s work schedule is consistent in that she works on the weekends that Plaintiff has the minor children and on Tuesdays and Thursdays. Defendant has adjusted her work schedule to care for the children and has done so in the past to ensure that she can care for the minor children during the times that she has the children. In the rare event that Defendant is unable to personally care for the children, Defendant arranged for Plaintiff, a babysitter, or for a trusted family friend to care for the minor children.

i.                     Defendant shops for clothing for the minor children. Defendant testified to the likes and dislikes of each child regarding her choice of clothing.

j.                    Defendant has a separate room for each of the children as she is continuing to reside in the marital residence and the rooms are decorated as seen in the photographs that Defendant displayed in court.

k.                  The children have a bedtime routine at Defendant\_\_\_\_\_\_s home.

l.                     When the Defendant prepares meals at her house for the minor children, the children play restaurant and one of the children takes the order of everyone else. Defendant testified about the likes and dislikes of each child for what she enjoys eating.

m.                 Defendant bathes the children on a nightly basis when they are in her care.

n.                   Defendant testified to using time out for discipline in her home. Defendant also testified about comforting the minor children when they are upset.

o.                  Defendant throws birthday parties for the minor children.

p.                  Defendant testified that Plaintiff is a good and devoted parent, capable of caring for the minor children. Defendant further testified that Plaintiff loves the minor children and the minor children love him.

Plaintiff believes that the parties communicate well with each other regarding the care and welfare of the minor children

31.              Both the Plaintiff and the Defendant love their children and the children reciprocate that love to both parties. Currently, both parents are equally involved in their children\_\_\_\_\_\_s care, play activities, schooling, and devotions. The court specifically finds that both parties are good parents to the minor children, demonstrating appropriate parenting skills and love for their children.

32.              The parties have two happy, well-adjusted children and both parties testified to the same.

33.              Both the Plaintiff and the Defendant desire to involve themselves in activities related to the care, nurture, support, and education of their children.

34.              Neither party desire for the other to have overnight guests of the opposite sex while the children are in their care and custody.

35.              It is in the best interests of the minor children that the Plaintiff and Defendant have joint legal and physical custody, with the custodial and living arrangements described with particularity herein below.

36.              The provisions of this Order, are based on the testimony and evidence provided to the court by each respective party and their witnesses and are fair and reasonable and in the best interests of the minor children.

37.              An award of attorney fees in this action is not appropriate and both parties\_\_\_\_\_ claims for attorney fees are denied.

Based on the above Findings of Fact, the Court enters the following:

**CONCLUSIONS OF LAW**

1.                  The parties are properly before the Court and this Court has jurisdiction over the parties and the subject matter herein.

2.                  The provisions contained herein for the custody of the minor children are in the best interests of the minor children and North Carolina is the proper forum for the resolution of any and all child custody claims.

3.                  It is in the best interests of the minor children for the parties to share the joint legal and physical custody of the minor children.

4.                  The amount of child support as set by Worksheet B of the North Carolina Child Support Guidelines is appropriate in meeting the reasonable needs of the minor children.

5.                  Plaintiff is capable of paying the sums ordered herein.

6.                  Application of the North Carolina Child Support Guidelines pursuant to N.C.G.S. Â§50-13.4(c) in awarding an amount of child support for the minor children is appropriate and sufficient to meet the reasonable needs of the children considering the accustomed standard of living of the children.

7.                  An award of attorney fees is not appropriate and both parties\_\_\_\_ claims for attorney fees are denied.

8.                  This is a final order on the issues of child support, child custody, and attorney fees.

9.                  The parties waive any further Conclusions of Law.

**DECRETAL PORTION**

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1.         All provisions of the Findings of Fact and the Conclusions of Law are reincorporated herein by reference as if fully stated herein.

2.         The Court has jurisdiction over the parties and the subject matter in this action.

**CHILD SUPPORT**

3.         Plaintiff shall pay to Defendant ongoing child support in the amount of $\_\_\_\_ per month.

4.                  Plaintiff shall pay the child support directly to Defendant for the month of \_\_\_\_\_.

5.         Payments shall begin \_\_\_\_\_\_\_\_. Plaintiff shall pay the total amount of child support to Defendant on or before the first (1st) day of each month by check until such time as his first paycheck is garnished as stated herein below, by mailing the amount to

North Carolina Centralized Collections

P.O. Box 900006

Raleigh, North Carolina 27675-9006

6.         As soon as payments can be garnished, Plaintiff's child support payments shall be garnished directly from Plaintiffs pay and sent by his employer to:

North Carolina Centralized Collections

P.O. Box 900012

Raleigh, North Carolina 27675-9012

7.         The parties shall equally share the costs of all uninsured medical and dental expenses for the minor children.

8.         Each party shall pay for camps and baby sitters that the children utilize while that parent has custody of the minor children unless the parties otherwise agree in writing before the event.

**CHILD CUSTODY**

9.         The parties shall share joint legal and physical custody of the minor children and shall exercise their custodial time as follows:

a.         Alternating Weekends: The parties shall alternate the weekends with the minor children, maintaining the schedule the parties currently are on. Weekends shall consist of Friday and Saturday overnights. Weekends shall commence when school is released or in the event that there is no school at the same time as school would be released for the minor children. On weekends when Plaintiff has the minor children, Plaintiff shall return the minor children to Defendant at 7:00 p.m. on Sunday so that the children can attend church with Plaintiff on his weekends.

For every period in this order discussing picking the children up or dropping them off when school would be released or commencing, and in the event the children are released from school at different times or commence school at different times, the parties shall use the earliest time to retrieve and or drop off the children.

b.                  Tuesdays and Thursdays: Plaintiff shall exercise custody of the minor children every Tuesday and Thursday overnight. Plaintiff\_\_\_\_\_\_s custodial time shall commence when school is released or in the event that there is no school at the same time as school would be released for the minor children. Plaintiff\_\_\_\_\_s custodial time on the next day shall terminate when he returns the children to school or daycare or at the same time as school would commence for the minor children in the event that there is no school.

c.                   Summer: The parties shall each have four (4) weeks with the children during the summer. A week shall be defined as seven (7) consecutive days. The parties shall decide and agree upon which four weeks each party shall exercise for summer visitation by April 1 of each year in writing (e-mails may constitute such writing). In the event that the parties cannot agree on or before April 1 of each year in writing, then the parties shall exercise the default summer schedule. The default summer schedule shall be as follows:

a.       In odd-numbered years the Defendant shall have the week that includes July 4. During odd-numbered years, when Defendant has the week that includes July 4, Plaintiff shall exercise custody on the last week in May, the last week in June, the second week in July, and the first week in August. A week shall be from Monday through Monday, and seven (7) consecutive days. The Defendant shall exercise custody during the remaining weeks for her four (4) remaining summer weeks.

b.      In even-numbered years the Plaintiff shall have the week that includes July 4. During even-numbered years, when Plaintiff has the week that includes July 4, Defendant shall exercise custody on the last week in May, the last week in June, the second week in July, and the first week in August. A week shall be from Monday through Monday and seven (7) consecutive days. The Plaintiff shall exercise custody during the remaining weeks for his four (4) remaining summer weeks.

d.                  Christmas Holiday: The parties shall equally divide the children\_\_\_\_\_s time off of school over the Christmas Holiday. In even-numbered years, the Plaintiff shall have custody of the children from the time that school recesses until 12:00 noon on December 26. In even-numbered years, the Defendant shall have custody of the children from December 26 at 12:00 noon until the time that school reconvenes. In odd-numbered years, the Defendant shall have custody of the children from the time that school recesses until 12:00 noon on December 26. In odd-numbered years, the Plaintiff shall have custody of the children from December 26 at 12:00 noon until the time that school reconvenes.

e.                   Thanksgiving Holiday: In even-numbered years, Defendant shall exercise custody of the minor children from the day that school recesses for the Thanksgiving Holiday until the day school reconvenes. In odd-numbered years, Plaintiff shall exercise custody of the minor children from the day that school recesses for the Thanksgiving Holiday until the day school reconvenes.

f.                    Easter Holiday: In even-numbered years, Defendant shall exercise custody of the minor children from the day that school recesses for the Easter Holiday until the day school reconvenes. In odd-numbered years, Plaintiff shall exercise custody of the minor children from the day that school recesses for the Easter Holiday until the day school reconvenes.

g.                   All other holidays: The parties shall celebrate any and all other holidays with the children that are not specifically listed herein on the standard custodial schedule as set forth herein.

h.                   Children’s Birthdays: The parties shall each have reasonable visitation with the minor children on the children\_\_\_\_s birthdays. Reasonable visitation for the parent without custody of the children on their birthday shall be considered to be two (2) hours on the minor child\_\_\_\_\_s birthday with five (5) days advanced written notice to the other party of which two (2) hours the party would like to visit with the children. Both children may visit with the parent without custody on the birthday for the two (2) hour period. Either party may plan birthday parties without the other parent, or with the other parent, at their discretion during their custodial time.

i.                     Right of First Refusal: The parties agree and stipulate to a right of first refusal for any period of time, other than summer vacation, where the party leaves the minor children in the care of someone else during their custodial time. The minimum period of time that triggers the right of first refusal is two (2) hours. In the event that either parent intends to leave the minor children in the care of a third party for more than two (2) hours, except for summer vacation weeks, they shall offer the other parent the right of first refusal to care for the minor children. If the non-custodial parent exercises their option to care for the children, they shall do so at their own expense and shall be solely responsible for providing all transportation to and from the custodial parent\_\_\_\_\_s home. The children shall be returned promptly to the custodial parent at the end of the period, unless it is past the children\_\_\_\_\_\_s bedtime, and then the children shall be returned the next day or at the next scheduled custodial exchange.

j.                    Other Visitation: The parties\_\_\_\_\_\_ may agree to deviate from this schedule at any time, but in the event of a dispute this schedule of custody shall control the custodial and visitation arrangements of the parties.

10.       This Court retains continuing jurisdiction over this action for the entry of further orders.

This the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_, nunc pro tunc to\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Honorable District Court Judge Presiding