

the Petition filed by Missouri Family Support Division, Exhibit A, Respondent O.J Counter-Petition for Declaration of Paternity and Child Support, Exhibit B, Respondent O.J Cross-Petition for Child Custody, Exhibit C, Paternity Testing Corporation, Exhibit D, O.J First Amended Statement of Income and Expenses, Exhibit E, O.J pay stubs from City of St. Louis Board ██████████, Exhibit F, O.J pay stubs from City of St. Louis Board ██████████ December 2016 to June 2016, Exhibit G, O.J First Amended Statement of Property, Exhibit H, proposed form 14, Exhibit I, proposed form 14, Exhibit J, XXX expense spreadsheet, Exhibit K, O.J receipts for XXX expenses, Exhibit L, folder containing pictures and certificates, Exhibit M, ██████████ community school academic records and disciplinary reports involving XXX, Exhibit N, O.J recording of T.R.J. conversation, Exhibit O, O.J proposed parenting plan, Exhibit P, T.R.J. Statement of Income and Expenses filed O.J 19, 2016, Exhibit Q, T.R.J. Statement of Property filed January 19, 2016, Exhibit R, automobile records involving T.R.J., Exhibit S, T.R.J. receipts for XXX expenses, Exhibit T, Missouri Department of Corrections documentation for W.W., Exhibit U and attorney fees, Exhibit W. All of these were admitted into evidence. Also, Respondent O.J moved to admit XXX XXX deposition, Exhibit V, which was opposed by Respondent T.R.J.. The court sustained the objection and Exhibit V was not admitted.

Respondent T.R.J. called S.E., D.F., M.H. and T.R.J. to testify. Likewise, Respondent T.R.J. moved to admit Missouri Department of Social Services correspondence dated November 24, 2015, Exhibit 5, Missouri Department of Social Services correspondence dated April 30, 2015, Exhibit 6, ██████████ ██████████ School Discipline Report, Exhibit 7, S.E. correspondence addressing XXX XXX, Exhibit 8, T.R.J. parenting plan, Exhibit 9 and T.R.J. proposed form 14, Exhibit 10. All of these were received into evidence. Finally, B.M. testified on behalf of the Guardian Ad Litem. Further, Guardian moved to admit the Guardian Ad Litem's

proposed parenting plan, GAL Exhibit 1. Likewise, this was received into evidence. Finally, the court takes judicial notice of the court file, including but not limited to all pleadings, statements of income and judicial orders.

In the Petition, Missouri Family Support Division asks the court to declare both Respondents the biological parents of the minor child, XXX XXX, born XXXX XX, 2005, order the Bureau of Vital Records to amend the birth certificate to reflect that Respondent O.J. is the father of the minor child, enter an amount of child support for the benefit of the minor child retroactive to the date Respondent was served with the Petition and order Respondent O.J. to pay the costs of blood testing. (Petition, Exhibit A.)

Respondent O.J. asks the court to declare him the biological father of XXX XXX and order that the birth certificate is amended, (Exhibit B,p.3, O.J. Testimony), enter an order for child support benefiting the minor child (Exhibit B,p.4), award Respondent O.J with sole legal and physical custody of the minor child and award Respondent T.R.J. with a reasonable visitation (Exhibit C,p.4), change XXX XXX name to XXX XXX (O.J. Testimony) and order Respondent T.R.J. to pay his attorney fees and court costs. (Exhibit B, p.4, Exhibit C,p.4.)

Respondent O.J argues that he was actively involved in the minor child's life from birth until approximately age 10, when Respondent T.R.J. abruptly prohibited Respondent O.J from seeing the minor child for an eight month time period. (O.J. Testimony.) Further, he alleges that Respondent T.R.J. lives in an unsafe environment, associates with dangerous, convicted felons and the Missouri Department of Social Services has even investigated her for parental neglect. (O.J. Testimony.) Indicative of her poor judgment, Respondent T.R.J. insists on leaving the minor child alone with Respondent T.R.J.'s one-year-old daughter despite being instructed not to do so, Respondent O.J asserts. (O.J. Testimony.) Most troubling to him, Respondent T.R.J. has

told the minor child on several occasions that O.J. is not his father. Respondent O.J prefers that the minor child attend [REDACTED] school in the St. Louis Public school district as opposed to [REDACTED] Academy as requested by mother. (O.J. Testimony.)

Conversely, Respondent T.R.J. asks that the court award her with sole legal and physical custody of the minor child and award Respondent O.J with a reasonable visitation (Exhibit 9,p.2-3) and order Respondent O.J to pay her monthly child support for the benefit of the minor child (Exhibit 9,10).

Respondent T.R.J. argues that O.J has not been actively involved in the minor child's life with Respondent T.R.J. only recently choosing to allow him to see the minor child; Respondent O.J refused to allow her to place his name on the minor child's birth certificate shortly after the birth and she pursued financial assistance through the state of Missouri after Respondent O.J refused to provide child support. (T.R.J. Testimony.) Respondent T.R.J. also alleges that father was physically aggressive with her and he repeatedly disparaged her to the minor child. (T.R.J. Testimony.) Respondent T.R.J. argues that it is in XXX's best interests to attend [REDACTED] Academy as opposed a St. Louis public school. (T.R.J. Testimony.)

The lucid Guardian Ad Litem recommends that the Respondents are awarded joint legal and physical custody of the minor child. (B.M. Testimony.) Further, she recommends that Respondent T.R.J. is awarded visitation every Monday after school until Wednesday before school and alternating weekends beginning Friday after school until Monday morning before school. She recommends that Respondent T.R.J. is awarded visitation at all other times during the week. (GAL Exhibit 1, p.1.)

Having heard the testimony of the witnesses, and after assessing their credibility, as well as taking into consideration the collective evidence and the respective pleading filed in this

matter, the court finds as follows:

Respondent O.J. is the father of XXX XXX, born XXXX XX, 2005. (O.J. Testimony.) His name does not appear on the minor child's birth certificate. (Exhibit N, p.95.) Respondent O.J. lives in [REDACTED] St. Louis, [REDACTED] with his girlfriend, M.H., a stepson, XXX, who is age 12, and M.H.'s daughter, XXX. (O.J. Testimony.) O.J. has worked at the [REDACTED] public school district as a family specialist for the past four years, earning approximately \$1,869.00 monthly. (Exhibit I, J.) He has a teaching degree from [REDACTED] but has not obtained a teaching certificate even though a teaching position would elevate his annual income by as much as \$10,000.00 to \$12,000.00. (O.J. Testimony.) In the past, Respondent O.J. has been convicted of a criminal weapons charge. (O.J. Testimony.)

Respondent T.R.J. is the mother of the minor child, XXX XXX. She resides [REDACTED] in the City of St. Louis. (T.R.J. Testimony.) Respondent T.R.J. resides with her one-year-old daughter, G.W., whose father is W.W. W.W. is incarcerated and does not pay any child support for the benefit of XXX. (Exhibit 5, Exhibit U, T.R.J. Testimony.) T.R.J. has another son, XXX XXX, age 17, who lives with his father but sees his mother on weekends. (D.F. Testimony.) Respondent T.R.J. does not pay child support for the benefit of XXX XXX. (T.R.J. Testimony.) Respondent T.R.J. works for [REDACTED] Petroleum Company as an assistant manager in a service station and earns approximately \$1,909.00 monthly or approximately \$22,908.00 annually. (T.R.J. Testimony, Exhibit 10.)

Following the birth of the minor child, Respondent O.J. resisted placing his name on the birth certificate. (Exhibit N, p.95.) In fact, his name does not appear on the birth certificate of any of his five children. Subsequently, Respondent O.J. and Respondent T.R.J. agreed to various visitations and custody exchanges until a disagreement occurring in early 2015. On February 8,

2015, Respondent T.R.J. came to Respondent O.J.'s residence to collect the minor child following a visitation. Subsequently, Respondent O.J did not allow the minor child to leave with her because she was intoxicated. (O.J. Testimony, Exhibit C, p.3.) The following day, Respondent O.J transported the minor child to school but Respondent T.R.J. picked him up after school and prevented Respondent O.J from seeing the minor child for approximately the next eight months. (O.J. Testimony.) Respondent T.R.J. is unapologetic about denying Respondent O.J access to his son for this extensive amount of time and is even unwilling to guarantee the court that she will not withhold him during future court ordered visitations. (T.R.J. Testimony.)

Although Respondent O.J assists his son with homework obligations, he does not interact well with the staff at his son's school. S.E. is the school principal and was extremely credible, persuasive and forthright when testifying. Among her observations, Respondent O.J did not actively participate or steadily attend XXX's school functions and, when he was present, Respondent O.J was "extremely difficult," "hostile" and "angry" when interacting with the school principal and secretary. (S.E. Testimony.) Among the specific examples of Respondent O.J's troubling attitude, the principal explained that on one occasion Respondent O.J arrived at the school and demanded to leave with his son who was participating along with the other students in a state aptitude test. (S.E. Testimony.)

Conversely, Respondent T.R.J. was much more engaged with the school, consistently responding to the numerous concerns about her son. More specifically, she was available to the school at all times throughout the day, encouraged her son to learn anger management strategies and behaved as a "concerned" parent. (S.E. Testimony, Exhibit 8.)

XXX recently finished fifth grade at [REDACTED] Community School, located [REDACTED] [REDACTED]. The minor child has achieved some academic success during the most

recent school year, receiving a four, on a one to four point scale, and further designated as 90 percent or better, in spelling, mathematics and science, and receiving a three, which is further designated as between 80 and 89 percent, in both writing and English. (Exhibit N, p.1-2.)

Despite the academic success and the effusive, laudatory compliments attributed to this young man, XXX's propensity for physical violence is extremely alarming. Between January 2012 and May 2015, XXX was cited for engaging in some form of a physical contact with other male and female students, and even a teacher, on more than ten occasions. (Exhibit N, p.39,40,41,44,47,48,49,50,51,54,55,56.) These incidents are memorialized in "Discipline Incident Reports" and prepared by school officials at or around the time of the occurrence. (Exhibit N, p. 39-58.) In at least three incidents, XXX punched someone with such force that bleeding occurred. (Exhibit N, p. 39,48,56.) The most recent incident occurred on April 15, 2015 when another student took a basketball away from XXX who subsequently "...punched her in the nose causing it to bleed." (Exhibit N, p.39.) In addition to the three incidents that describe a bleeding injury, there are another six incidents describing XXX as "fighting" or "punching" other students. (Exhibit N, p. 40,47,50,51,54,56.) As a consequence of this conduct, XXX was suspended from ██████████ Community School on two occasions, initially in 2014 and then again in 2015, for a total of three days. (Exhibit N, p.20,22.) Only two of these multiple incidents escalating into some form of a physical altercation involve XX, who S.E. describes as XXX's rival. (Exhibit N, p.44,56; S.E. Testimony.)

XXX has the opportunity to attend ██████████ Academy for sixth grade this upcoming fall. Both S.E. and the Guardian Ad Litem believe that it is in the best interest of the minor child to attend ██████████ Academy. (S.E. and B.M. Testimony.) Likewise, Respondent T.R.J. feels strongly that the minor child attend ██████████ Academy, where he can take advantage of an excellent

academic opportunity as well as benefit from the financial generosity of others. Respondent O.J prefers that XXX attend ██████████ of the St. Louis public school district as opposed to ██████████ because XX currently attends ██████████.

The court finds that it is in the best interests of the minor child that he attend ██████████ Academy. ██████████ Academy has a rigorous academic curriculum, specifically designed for young men attending sixth through eighth grade. Over 96 percent of those attending ██████████ will later graduate from some high school, including the extremely prestigious, highly regarded ██████████ ██████████ High School. ██████████ Academy is an exclusive academic environment where the collective student body numbers around 60, with just 20 students per class.

The parties and minor child received exceptional assistance from the Guardian Ad Litem, who frequently interacted with the minor child, actively counseled the parents and proactively addressed various problems surfacing between the parties and even family members. For example, the Guardian Ad Litem mediated a video game dispute between the minor child and his half-brother, XXX XXX. (T.R.J. Testimony.) Upon learning that Respondent T.R.J. was purportedly leaving the ten-year-old minor child at home alone with his half-sister, one-year-old XXX, the Guardian counseled Respondent T.R.J. to resist this activity. Despite this, the Guardian later appeared for a home visit and witnessed the minor child alone with his sister without any adults present. (B.M. and T.R.J. Testimony.) On another occasion, the Guardian interceded and acted on behalf of the minor child after Respondent T.R.J. and the school alleged that Respondent O.J's conduct was having a negative effect on XXX.

A. Paternity.

After reviewing the pleadings and considering the testimony of the parties, the court finds

that O.J. is the biological father of XXX XXX, born XXXX XX, 2005. (O.J. Testimony, Exhibit D, p.1, Exhibit 6, p.1-3.) Immediately following the birth of the minor child, Respondent O.J chose not to place his name on his son's birth certificate. (Exhibit N, p.95.) Pursuant to the request of Petitioner and Respondent O.J, the Missouri Bureau of Vital Statistics shall amend the birth certificate of the minor, unemancipated child to reflect that Respondent O.J. is the father on XXX XXX.

B. Custody.

Respondent O.J requests that the court award him with sole legal and sole physical custody of the minor child but award Respondent T.R.J. with a reasonable visitation. (O.J. Testimony, Exhibit C, p.4.) Conversely, Respondent T.R.J. requests the court award her with sole legal and sole physical custody of the minor child and award Respondent O.J with a reasonable visitation. (Exhibit 9, p.2-3.) The Guardian Ad Litem recommends that the Respondents are awarded joint legal and physical custody of the minor child with T.R.J. awarded visitation every Monday after school until Wednesday before school and alternating weekends beginning Friday after school until Monday morning before school. O.J is awarded visitation at all other times during the week. (GAL Exhibit 1, p.1.) Currently, the parties exercise a visitation schedule similar to the Guardian Ad Litem recommendation. (Court file, order dated April 12, 2016.)

Respondent O.J and T.R.J. have multiple shortcomings. Respondent O.J probably offers a more stable home environment with the assistance of M.H., but he has proven that he does not relate well with those who exercise authority over the minor child. It is unacceptable for him to demonstrate hostility and anger toward those making efforts to educate - and provide education

support - for his son. Ironically, he chooses to intimidate his work colleagues who face a similar amount of parental frustration, anxiety and concern as he does in his role as a family specialist. Further, he is misguided for blaming other teachers and XXX for his son's concerning record of violent behavior.

Contrary to his version, the court does not find any evidence of bullying by other students or teachers against his son. In fact, the record reflects that XXX is aggressive toward others and frequently displays a disrespectful attitude toward authority. Only two of the multiple violent actions attributed to his son involve XX. Instead of blaming, Respondent O.J should focus on improving his son's attitude, conduct and demeanor to ensure that this issue does not complicate XXX's academic potential. While this is a problem both Respondents must address, the evidence reveals that the minor child especially looks to Respondent O.J for guidance as the principle male role model in his young, impressible life.

Likewise, Respondent T.R.J. is equally troubled and angry, further complicating her ability to nurture and effectively care for the minor child. Among the many examples of her poor judgment, she denied her son access to his father for several months in 2015. This distasteful conduct immediately followed her reckless decision making of attempting to transport the minor child in an intoxicated condition. Even at trial, she would not assure the court that she would refrain from withholding the minor child during future visitations. This obstinate attitude is wrong. The court will not tolerate her withholding the minor child from his father in future visitations and she will face the consequences if she repeats this conduct.

Also she demonstrates poor decision making regarding supervision. Even more troubling, she was counseled by the Guardian about this issue, ignored her directive and proceeded to leave the then ten-year-old minor child alone with her one-year-old daughter. Consequently, the

Missouri Division of Family Services investigated this specific incident but chose not to pursue the matter. (Exhibit 5,6.) Undoubtedly, Respondent T.R.J. offers a less stable home environment for her son but, to her credit, she recognizes the opportunity that [REDACTED] Academy offers the minor child.

Both require marked improvement when interacting with each other and the minor child. In short, they need to focus on the needs of the minor child instead of focusing on each other. Currently, they harbor considerable ill feelings toward each other. The minor child's demeanor, conduct and behavior require a considerable amount of attention. If left unaddressed, this could impede his ability to succeed academically and develop personally. Both parties shall support any and all counseling and therapy recommendations offered by the Guardian Ad Litem as well as take advantage of any opportunities to improve their parenting and communication with each other. For the sake of XXX, the parties must do better.

After considering the current visitation plan, listening to the guardian ad litem, taking into consideration the collective evidence as well as listening to the testimony of the witnesses and assessing their credibility, the court awards the parties with joint legal and physical custody of the minor child XXX XXX pursuant to Court Exhibit A, the court approved parenting plan. The court finds this is in the best interests of the minor child.

Pursuant to the Guardian Ad Litem's recommendation, the Respondents are awarded custody pursuant to the current visitation schedule. Specifically, Respondent T.R.J. is awarded the minor child every Monday after school until Wednesday before school and alternating weekends beginning after school Friday, August 29, 2016 until Monday morning before school.

All exchanges shall continue at the McDonalds [REDACTED]. Both parties shall participate in the exchanges in a courteous, timely and prompt manner. Respondent T.R.J. is

designated the residential parent for mailing and educational purposes, as outlined in Court Exhibit A, the court approved parenting plan. Further, Respondent T.R.J. shall be allowed to claim the minor child as a dependent on her state and federal tax returns in even numbered years and Respondent O.J shall be allowed to claim the minor child as a dependent on his state and federal tax returns in odd numbered years.

1. Medical and Health Insurance.

The parties are ordered to provide medical and dental insurance to the extent available through employment and pursuant to Exhibit A, the court approved parenting plan.

2. Relocation Notice.

Notice of a proposed relocation of the residence of the minor child, or any party entitled to custody or visitation of the minor, unemancipated child shall be given in writing by certified mail, return receipt requested, to any party with custody or visitation rights.

Absent exigent circumstances, as determined by the court, each party shall notify all other parties to this judgment in writing, by certified mail, return receipt requested, at least sixty days prior to any proposed relocation of the principal residence of the minor and unemancipated child of the following:

- (1) The specific address and mailing address of the new residence or, if not known, the new city of residence;
- (2) The home telephone number of the new residence, if known;
- (3) The date of the intended move or proposed relocation;
- (4) The specific reasons for the proposed relocation; and
- (5) A proposal for any necessary revisions to the schedule for physical custody and visitation with the minor and unemancipated child under this judgment.

The obligation hereunder to provide this information shall continue so long as any party to this judgment is entitled to physical custody or visitation with any minor and unemancipated child. (§452.377.2 RSMo.)

Any failure of a party to provide this information to all other parties to this judgment may (1) result in further litigation to enforce this judgment, including contempt of court, (2) be considered in any proceeding to modify any party's rights to physical custody or visitation with the minor and unemancipated child and (3) cause reasonable costs and attorney fees to be assessed.

C. Child Support.

Next, the court evaluates the child support responsibility for the parties. When preparing the form 14, attached and marked as Court Exhibit B, the court imputes \$1,869.00 monthly income to Respondent O.J, parent paying support. (Court Exhibit B, line 1.) This income is attributable to the amount documented in his proposed form 14 (Exhibit I, J), which closely resembles his income as reported by the [REDACTED] public school district. (Exhibit G.)

Conversely, the court imputes \$1,909.00 monthly income to Respondent T.R.J., parent receiving support. (Court Exhibit B, line 1.) This income is attributable to the amount documented in her proposed form 14 (Exhibit 10).

Over Respondent T.R.J.'s objection, the court finds that Respondent O.J is eligible for an adjustment in line two in the amount of \$427.00, the court ordered child support involving two other minor children. (State's Exhibit 5, p.5.)

Further, the court finds that Petitioner is entitled to a 20 percent adjustment because Petitioner is awarded visitation with the minor child in an amount exceeding 109 nights per year.

Accordingly, “(t)he presumed child support is not unjust or inappropriate if the parent obligated to pay support receives an adjustment greater than ten percent if that parent is awarded periods of overnight visitation or custody of more than 109 days per year.” (2016 Missouri Court Rules, Form 14, Line 11, p.477.)

Therefore, the court finds that Respondent O.J. is ordered to pay \$151.00 in monthly child support to Respondent T.R.J. on the first day of each month, beginning no later than September 1, 2016 and continuing to be due and owing on the first day of each following month. Pursuant to the request of the Missouri Family Support Division, these payments are retroactive to the date of service, March 12, 2015. (Exhibit A, court file.) The child support payments may be collected by wage withholding or Respondent O.J may mail the checks directly to the Family Support Payment Center, P.O. Box 109002, Jefferson City, Missouri 65110. Previously, Respondent O.J was ordered to pay monthly child support in the amount of \$100.00 beginning March 1, 2016. (Court order, February 29, 2016.) Any child support payments provided by Respondent O.J to Respondent T.R.J. pursuant to the February 29, 2016 court order shall be applied against this outstanding balance retroactively applied to March 12, 2015.

The court designates Respondent T.R.J.’s residence as the address for educational purposes. The parties are ordered to maintain both health and dental insurance needs for the child to the extent available. The parties are ordered to evenly divide any health, dental or eye expenses that are not covered by insurance.

1. Longterm Obligations.

To remain eligible to receive support after minor child’s graduation from high school, a child must (1) enroll in an institution of vocational or higher education not later than October 1

following graduation; (2) enroll in and complete each semester, not including summer, at least 12 hours of credit or, if employed at least 15 hours per week, at least nine hours of credit; (3) achieve grades sufficient each semester to enroll at such institution for the next semester; and (4) submit to each parent at the beginning of each semester an official document from such institution that identifies the courses enrolled in and completed each semester, the grades and credits received for each course, and the courses and number of credit hours of each course enrolled in for the next semester. Failure to comply with these requirements may result in the child's ineligibility to receive support during a semester or termination of the child's support. (§452.340.5 RSMo.)

D. Guardian Ad Litem Fees.

On August 19, 2015, Respondent O.J was ordered to pay \$200.00 and Respondent T.R.J. was ordered to pay \$100.00 for the services of the Guardian Ad Litem. (court file.) However, Respondent T.R.J. did not pay the \$100.00 invoice. Then, on May 3, 2016, each party was ordered to pay \$500.00 (court file), which they did. There remains an outstanding balance of \$3,029.00, per party, as of the date of trial, June 28, 2016, in addition to the remaining \$100.00 Respondent T.R.J. has not yet paid. Therefore, the parties are ordered to immediately make the remaining payments to the Guardian Ad Litem. For any unpaid amounts existing after thirty days of the date of this order, then statutory interest shall attach and collection to issue.

E. Court Costs.

Generally, parties in a domestic relations matter are obliged to pay their own attorney fees, Mistler v. Mistler, 816 S.W.2d 241, 256 (Mo.App.S.D.1991.) However, a court is permitted

though not required to award attorney fees under chapter 452.355.1 RSMo. The court must consider all relevant factors including the merits of the case, the extent to which the parties' conduct required the expense of attorney fees and the financial resources of both parties.

Tremble v. Tremble, 978 S. W.2d 55, 58-59 (Mo.App.S.D.1998); Geary v. Geary, 697 S. W.2d 318, 320-21 (Mo.App.E.D.1985). Having considered all the relevant factors, the court orders each party to pay their own attorney fees and court costs. Pursuant to the request of the Family Support Division however, Respondent O.J. is ordered to pay the costs of the paternity testing. (State's Exhibit 6.) Finally, the court incorporates Exhibit A (Parenting Plan) and Exhibit B (Form 14 completed by the court). Any and all additionally requested relief is denied.

DATED and entered this twenty-fifth day of August 2016.

SO ORDERED:

Thom C. Clark,
Associate Circuit Court Judge

cc: N.W., Esq.
B.M., Esq.
S.G., Esq.
R.C., Esq.