

## 1.. Jurisdiction, Parenting Plan and Time-Sharing Schedule

Jurisdiction This court has subject matter jurisdiction and personal jurisdiction over the parties and the child. This court has jurisdiction over all parenting issues under the Uniform Child Custody Jurisdiction and Enforcement Act, the International Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., the Parental Kidnaping Prevention Act, and the Convention on the Civil Aspects of International Child Abduction enacted at the Hague on October 25, 1980. Under Florida law, an order for a parenting plan, parental responsibility order, and a time-sharing schedule is a “custody” order under those laws. Florida law does not use the terms “custody”, “visitation”, or “primary residential parent” in a proceeding between separated parents. Those terms have no meaning under Florida law in a case between separated parents.

Legal Duty of Both Parents **The parties’ child is XXX born DDD.** Both parents have a legal duty to promote the other parent to the child.

The child has a right to regular and frequent contact with both parents:

"It is the public policy of this state to assure that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing." §61.13(2)(b)

Both parents are ordered to "go the extra mile" with the other parent and make an extra effort to promote the other parent to the child. The Supreme Court of Florida has explained that both parents have an

"...affirmative obligation to encourage and nurture the relationship between the child and the [other] parent... This duty is owed to both the [other] parent and the child. This obligation may be met by encouraging the child to interact with the [other] parent, taking good faith measures to insure that the child visit and otherwise have frequent and continuing contact with the [other] parent and refraining from doing anything likely to undermine the relationship naturally fostered by such interaction." *Schutz v Schutz*, 581 So. 2d 1290 (Fla. 1991).

Florida law also provides:

“When a parent who is ordered to pay child support... fails to pay child support ... , the parent who should have received the child support ... may not refuse to honor the time-sharing schedule presently in effect between the parents.” §61.13(4)(a)

"When a parent refuses to honor the other parent’s rights under the time-sharing schedule, the parent whose time-sharing rights were violated shall continue to pay any ordered child support ...” §61.13(4)(b).

The point is that the child has a right of contact with both parents and a failure to pay child support does not take away the child’s right of contact.

Designation of Parenting Plan and Time-Sharing Schedule In deciding a parental

responsibility order, a parenting plan and a time-sharing schedule, the court must make the child's best interest the "primary consideration" and the court must consider all of the factors in §61.13(3). The court must also consider the "expressed desires" of the parents in these decisions, but the interests of the parents are not a consideration, §61.13(2)(c)2.,a. The parents do not have a right to any particular parental responsibility order, parenting plan, or time-sharing schedule, while the child has a right to "frequent and continuing contact with both parents after the parents separate." §61.13(2)(c)1. The court has reviewed and considered all of those factors in making a decision about the parenting plan, the parental responsibility order, and the time-sharing schedule. The court declines to make findings under each of the factors because the court finds this would not be in the child's best interest.

a. Parenting Plan, Sole Parenting Ordered, Detriment to the Child The law requires the court to "order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child." F.S. §61.13(2)(c)2.

In this case, the court finds that an order for shared parental responsibility would be detrimental to the child. In particular, the evidence demonstrates that (1) the parents do not confer and consult together about parenting decisions; (2) the parents have no communication at all concerning their children; (3) the parties have not demonstrated a capacity to share parental responsibility; (4) on the contrary, this record demonstrates that these parents cannot share parental responsibility, (5) an unlimited shared parenting order would be detrimental to the child because such an order would require these parents to confer with each other over all major parenting decisions but these parents would argue and bicker in these consultations, which is detrimental to the child; and (6) ordering these parents to share parental responsibility without granting one of them ultimate responsibility when they have demonstrated they are incapable of sharing parental responsibility is not in the child's best interest because at least one parent needs the authority to make parenting decisions and these parents cannot make parenting decisions together.

A parent seeking sole parental authority or exclusive parental authority over some aspect of the child's life must first plead for this relief in his or her petition. *McDonald v. McDonald*, 732 So.2d 505 (Fla. 4<sup>th</sup> DCA 1999). In this case, at least one of the parties pled for sole parental authority or exclusive parenting authority over the child's life.

The court finds the petition has merit. **Therefore, the court hereby orders that the PPP has sole and exclusive parental responsibility. Therefore, the PPP shall have the sole authority over all parenting decisions concerning the parties' minor child.** *Roski v. Roski*, 730 So.2d 413 (Fla. 2d DCA 1999). The court finds it would be detrimental to the child to order shared parental responsibility because the parents' communications are acrimonious and they can communicate with each other about very little concerning their child or anything else. An order for shared parenting would ask them to do the impossible, that is, make joint decisions concerning their child, and it would require them to deal with each other, which would lead to further conflict, which would be detrimental to the child. So, a shared parental responsibility order would be detrimental to the child and sole parental responsibility is necessary to avoid detriment to the child. *Grimaldi v. Grimaldi.*, 721So.3d 820 (Fla. 4<sup>th</sup> DCA 1998).

Therefore, **the court orders that the PPP has sole and exclusive authority to make parenting decisions concerning the child's education, pre-schools, schools, school choice,**

**medical needs, dental, optical, orthodontic treatments, participation in sports, extracurricular activities, curfews, driving, obtaining a driver's license, dating, and all other aspects of parenting.** The PPP may consult with the SSS but the decision in any parenting issue belongs to the PPP. The court has considered all of the factors in §61.13(3) in making this parental responsibility order.

The SSS is hereby granted authority to authorize emergency medical treatment on the child when the child are with the SSS but the SSS must promptly notify the PPP of the emergency and then the PPP has the authority to make a decision about non-emergency medical treatment.

b.. Both parents have equal access to school and medical records - Access to records and information pertaining to the child, including, but not limited to, medical, dental, and school records, may not be denied to either parent by any of these providers. Either parent has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers. §61.13(2)(b)3. **However, this is not a final order of equal access to records and information and the court hereby reserves jurisdiction over this right of access.**

c.. Time-Sharing Schedule - The court hereby orders that the child will have contact with the parents according to the attached Time Sharing Schedule. **After considering all of the factors in §61.13(3)the court finds the child's best interests are served by having them live most of the time with the PPP.** The time-sharing schedule ordered by the court is attached to this Final Judgment. This is a final order for a time-sharing schedule.

The court finds that the foregoing parenting plan and time-sharing schedule are in the child's best interests after considering all of the factors in §61.13(3). The court orders that the parents shall follow this plan and time-sharing schedule.