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SUPERIOR COURT OF SAN DIEGO

FAMILY COURT SERVICES

November 14, 2002

FILED
STEPHEN THUNBERG
Clerk of the Superior Court

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DATE OF HEARING: December 02, 2002

By: _____, Deputy

TO: Departments F1/F2/F3/F4/F5/F6

D-472021

FROM: Janine Harty, MSW, Counselor
Family Court Services

RE: Parenting Plan

OF: Oliver Joseph Lally-Roepke, DOB: 6/30/95

Mother: Michele Lally
Father: Cliff Roepke

On November 14, 2002, Michele Lally and Cliff Roepke, parents of the above-named minor child, participated in a pre-OSC mediation conference in this office. This is their first FCS mediation. The parents were unable to reach an agreement regarding a sharing plan for their child.

The parents were married in July, 1994 and separated in December, 1996. The mother filed dissolution papers in June, 2002.

The father lives in a 2-bedroom house in San Mateo. He works Monday through Friday from 9 a.m. until 5 p.m.

The mother and Oliver live in a 3-bedroom condominium in San Diego. The mother is self-employed and works at home.

The father is the moving party in this matter. He is requesting joint custody and monthly visitation. He said that the mother has been frustrating his visits since May of this year. Prior to May, he and the mother have been in and out of each other's homes since they separated. The father said that he was under the impression that they were working on getting back together, so much so that he bought the home in which the mother and Oliver now live.

According to the father, in May they had a dispute over the mother putting his belongings in storage. During the dispute, he claimed that she said "maybe I'll take Oliver and split". He said that the mother has not allowed him to visit her home since that time. He said that she also prevented him from seeing Oliver when she was in San Mateo. He was finally able to visit Oliver on 11/2 and 11/3 after he sought legal assistance.

The father said that he has always had a good relationship with his son, but usually with the mother present. Now that they are getting a divorce, he would like to have his own time with Oliver. The father said that he plans to get an apartment in San Diego so that he can visit Oliver and be part of his life for one week per month. He said that since he owns his own business, he can take time off when he wants to. He would be willing to split or alternate holidays and school breaks. He is also requesting that Oliver spend the majority of the summer with him. He said that he has not requested overnight visits before now because he and the mother were always in the same house during previous visits.

The mother is asking that the father have daytime visits on weekends with Oliver once a month, and that overnights not be considered until the father completes parenting and anger management classes. She said that he never even requested overnight visits until the divorce papers were filed. She would prefer to split the holidays and school breaks rather than alternate them. She would like Oliver to spend two weeks of the summer with his father. She also proposes taking Oliver to visit his father in San Mateo every other month.

The mother denied that she has ever tried to prevent the father from spending time with Oliver. She said that the visits missed during the summer were the result of the father refusing to sign a paper stating that he would return Oliver to her. She felt that was necessary because he had threatened to keep Oliver until they went to court. She claimed that there were also times that he did not return her calls regarding visits. She said that the father was supposed to visit Oliver in October but cancelled. She said that when he finally saw Oliver on 11/2 and 11/3, he brought him back early both days.

The mother said that she left the father because he had a drinking problem and a violent temper. She said that she called the police once during December, 1996 because he shoved her against the wall while she was holding Oliver. The father was not arrested. She said that she went to counseling with him once soon after that,

but would not return because he refused to acknowledge that he had a problem with alcohol or anger.

The mother admitted that she and the father have visited each other's homes throughout the separation. She denied that she ever had any intention of reconciling with him, even after he bought the house in San Diego. The father had regular contact with Oliver until May of this year. She said that the father has never appeared intoxicated in Oliver's presence. She denied any further domestic violence.

The father denied having a problem with alcohol. He said that during the December 1996 incident, he and the mother struggled over a laundry basket, not Oliver. He said the police interviewed both of them, saw no evidence of domestic violence, and left.

REASONS FOR RECOMMENDATION:

These appear to be well-meaning parents who have had a very ambivalent relationship for the last six years. The father apparently thought he and the mother were reconciling until she filed divorce papers earlier this year. Now that they are preparing to go their separate ways, the mother seems very reluctant to allow Oliver to venture out of her sight. It is time for her to accept the fact that she and the father will no longer be spending time together with Oliver, and that the father is able and willing to care for Oliver on his own. The child is seven years old and able to express his needs to both parents.

The mother's concerns about the father's alcohol abuse and angry outbursts seem to be based on incidents which occurred in 1996. These concerns have not prevented her from allowing Oliver to spend time with his father for the past six years. Since there is no documentation of criminal activity or child abuse, there does not appear to be sufficient justification to deny the father overnight visitation at this time.

The following recommendation is based on the father's stated intention to obtain an apartment in San Diego in order to visit Oliver regularly.

RECOMMENDATION:

1. The parents shall share joint legal custody, which means that both parents shall share the right and responsibility to make decisions relating to the health, education, and welfare of their child.
2. Each parent shall have access to medical and school records pertaining to the child and be permitted to independently consult with any and all professionals involved with the child. It is each parent's responsibility to request school calendars, progress reports, report cards and parent-teacher conferences directly from the school.
3. Each parent shall be empowered to obtain emergency health care for the child without the consent of the other parent. Each parent is to notify the other parent as soon as reasonably possible of any illness requiring medical attention or any emergency involving the child.
4. The primary residence shall be with the mother.
5. The parenting of the child shall be shared as follows:
 - a. Option 1: Oliver shall be with his father in San Diego on the third weekend of every month from Friday after school until Monday morning. The father may also visit Oliver from after school until 7 p.m. on the Wednesday and Thursday evenings prior to the third weekend.
 - b. Option 2: Oliver shall be with his father in San Diego on the first and third weekends of every month from Friday after school until Monday morning.
6. Holiday schedules shall take precedence over the regular parenting schedule, which shall resume after the holiday is over. In absence of other agreement by the parents, specific holiday schedules shall be as follows:
 - a. Christmas: In 2002, Oliver shall be with his father from after school on December 20 until 9 p.m. on Christmas Eve. He shall be with his mother for the remainder of the Christmas break. Beginning in 2003, in odd years Oliver shall be with his father for the week containing Christmas Eve and Christmas Day, and with his

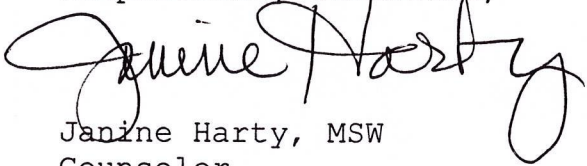
mother for the week containing New Year's Eve and New Year's Day. In even-numbered years, this schedule shall reverse.

- b. Spring break: In odd-numbered years the child shall be with the mother from Friday after school until Wednesday at 2 p.m., and with his father from Wednesday at 2 p.m. until the following Monday morning. In even-numbered years this schedule shall reverse.
 - c. Mother's Day/Father's Day: The child shall be in the care of the parent being honored by the holiday.
 - d. Fourth of July: In odd-numbered years the child shall be with the father from 12 noon until 10 p.m. In even-numbered years he shall be with his mother.
 - e. Thanksgiving: In odd-numbered years the child shall be with the father from Wednesday after school until Monday morning. In even-numbered years Oliver shall be with his mother.
 - f. Child's Birthdays: In odd-numbered years, Oliver shall be with the father from 10 a.m. until 7 p.m. In even-numbered years he shall be with his mother.
 - g. Three-day holidays not already addressed shall be spent with the parent who would normally have that weekend and the weekend shall be extended by 24 hours.
7. The summer school break shall be shared as follows: Oliver shall spend alternate two-week periods with each parent throughout the summer. This arrangement will only be in effect if the father is able to take time off from work during his parenting time.
8. Either parent may take a traveling vacation with the child each year of up to 3 weeks. They shall notify the other parent in writing of their vacation plans a minimum of 30 days prior to departure and provide the other parent with a basic itinerary to include dates of departure and return, destinations, flight information and telephone numbers for emergency purposes. The vacationing parent shall not schedule the vacation during the other parent's scheduled holiday time with the child, unless agreed upon in advance by both parents.

9. When either parent wishes to travel with the child outside the County of San Diego for overnight or longer during their parenting time, the other parent must be given prior notice of date and time, destination and an emergency telephone number.
10. There shall be reasonable phone contact between the child and parents.
11. Neither parent shall make negative statements about the other parent in the presence or hearing of the child, question the child about the other parent, or use the child for communication about adult business. The child shall not be exposed to court papers or disputes between the parents, and each parent shall make every possible effort to ensure that other people comply with this order also.
12. Each parent shall always keep the other informed of his/her address and telephone numbers and shall notify the other parent within 24 hours of any changes.
13. At least 24 hours notice of any schedule change shall be given to the other parent. The parent requesting the change shall be responsible for any additional childcare that results from the change.
14. Neither parent shall schedule activities for the child during the other parent's scheduled parenting time without the other parent's prior agreement.
15. Neither parent shall move the residence of the child out of San Diego County without giving the other parent a 60-day advance written notice and obtaining the other parent's written permission prior to the move or an order of the Court granting the move.

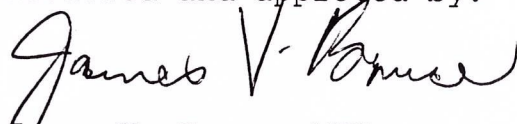
16. The father shall refrain from using alcohol during the time the child is in his care and for 24 hours prior to spending time with the child.

Respectfully submitted,



Janine Harty, MSW
Counselor
619-557-2107

Reviewed and approved by:



James V. Bruce, MSW
Supervisor

Jmh

Cc: Michele Lally, mother
Cliff Roepke, father
Carole D. Baldwin, Esquire
E. Gregory Alford, Esquire

Case Name Roeper/Lally
Domestic No. D-472021

CHILD SHARING PERCENTAGE

Option 1: MOTHER: 90%

FATHER: 10%

COMMENTS:

Option 2: 80%

20%

approximate