

SEALED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

Chie Kawabata,

Petitioner,

and

Kristoffer Morness,

Respondent.

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S.C. No. 11-3-00982-7 SEA

PARENTING PLAN REPORT

REPORT DATE: 12/28/11

Regarding the best interests of the child:

Maximus Kawabata Morness DOB 02/04/08

I. NATURE OF CASE

This is a dissolution case involving one minor child, Maximus (age 3 ½). This matter was transferred to this evaluator for a parenting plan evaluation on 07/28/11. Per this order, “the parenting evaluator shall investigate and report factual information regarding the issues ordered to be reported or investigated to the court. The parenting evaluator shall always represent the child’s best interests. The parenting evaluator may make recommendations based upon her investigation. The parenting evaluator shall report the child’s expressed preferences regarding the parenting plan to the court, together with the facts relative to whether any preferences are being expressed voluntary and the degree of the child’s understanding.” The evaluator “shall make a full report to the court and counsel/parties as soon as possible and at least 60 days before trial provided that an extension is granted by the court. This report shall include recommendations and bases for those recommendations.”

Furthermore, issues ordered to investigate and report include “all issues relating to development of a parenting plan. The parenting evaluator shall also report to the court on any other issues

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discovered that could affect the safety of the child.” Mediation is currently set for mid-January 2012. Trial is set for early February 2012.

Work on this case began in early October after receipt of paperwork and documents.

II. BACKGROUND AND CURRENT INFORMATION

Chie Kawabata (44) and Kristoffer (Kris) Morness (38) were married in May 2006 and separated in January 2011. They have one child together, Maximus (DOB 02/04/08). The mother lives in Bellevue and is employed at Microsoft; Max attends a day care/preschool during the week in Bellevue. The father moved in January 2011 to his native Vancouver, British Columbia, Canada where he resides with his girlfriend, Chelsea Caldwell. The father has very recently accepted a full-time position in computer software design in Vancouver.

Per their temporary parenting plan entered on 07/28/11, the child resides primarily with the mother and has residential contact with the father in Canada on Thursday at 4:30 pm until Monday at 4:30 pm “once per month, on the 1st weekend of the month, unless otherwise agreed in writing.” The parents are to meet in Bellingham to exchange the child on Mondays at 4:30 pm and the father is to pick-up Maximus at his school on Thursdays. Decision making, vacations and holidays were reserved. The plan notes “the child shall be kept in a 100% smoke free environment” and the “court has zero tolerance for flea bites and the child shall be protected there from.”

Both parties would like the child to primarily reside with them and have allegations about the other’s parenting, relationship and supervision of the child, work schedules and more. The mother proposes no RCW 26.09.191 issues though the father has proposed a history of acts of domestic violence from her, a long-term emotional or physical impairment and abusive use of conflict.

III. INFORMATION FOR THE REPORT

This report is based upon the following information:

1. Office interview with the mother on 10/03/11.
2. Private interview with the father at his house in Vancouver, BC, Canada on 10/10/11.
3. Observation of Maximus and the father at his house on 10/10/11.
4. Home visit to the mother’s house on 12/02/11.
5. Observation of Maximus and his mother at her house on 12/02/11.
6. Review of parent questionnaires.
7. Follow up phone calls and/or emails with both parents.
8. Review of references. The father’s references supported his parenting and relationship with Maximus. The mother’s references support her parenting and relationship with Maximus.
9. Consultation with professional parenting evaluator colleague.
10. Review of all documents provided by attorneys.

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11. Review of Maximus' medical records from Pediatric Associates, 2008 to present, which include notations of telephone consultations between the mother and/or father and health care providers, check-ups, in person visits with the mother and nanny attending and other well child information.
12. Review of counseling records from **Mark Hale, LMHC, parties' former marital therapist**. The notes are difficult to read and are very brief but indicate discussions in therapy about the marital history and problems. Comments from the mother are for the father to stop raising his voice at her and comments from the father include the mother allowing him to have an opinion. The mother reported she wanted to be a good parent and set aside differences. The father reported there were always problems in their relationship and that the mother was too hard to please so he stopped trying.
13. Review of counseling records from **Debra Gibbons, MS, LMFT**. Ms. Gibbons provided some parenting counseling to the mother (in person) and to the father (via Skype). Notes indicate intake questions of the mother and that she was oriented, appropriate and cooperative. According to her history report, she claims she was depressed when she was 33 years old but this was mild. About 11 years ago, she experienced suicide ideation with no exact plan. She voluntarily went to a local hospital for 24 hours and was released with no treatment recommended. The mother reported concerns about Maximus' separation anxiety and stated, "I want to know what to do" and that "Kris and I need to work together to create a better structure and transitions for him." The mother's goals were to engage in joint therapy sessions with the father and have a joint parenting plan. Ms. Gibbons noted the mother "presents as an average, healthy and well dressed 43 year old female. Client is articulate, oriented and [made] good eye contact and [had] normal cognitive functioning with appropriate affect." In letters from summer 2011 (versus therapy notes), Ms. Gibbons noted concerns about Maximus' separation anxiety and that she thought it would be better for the father to visit with Maximus in Washington and that his girlfriend should not stay at the home during visits to Canada until "Maximus is mature enough to understand the meaning of his primary relationships and feels secure enough that he is no longer suffering from separation anxiety."
14. Review of all written materials and documents provided by both parents.
15. Collateral contacts:
 - Chelsea Caldwell, father's girlfriend.
 - Veronica Allude, Maximus' nanny.
 - Mark Hale, LMHC, parties' previous marriage therapist.
 - Sachiko Reece, parties' previous marriage therapist.
 - Sugniko Horizons, child's daycare/pre-school.
 - Katori Shion, assistant director, Sugniko Horizons.
 - Debra Gibbons, MS, LMFT, family therapist.

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IV. RE: MOTHER (this section is self-reported)

The mother initially told this evaluator her goal was to try to come to a peaceful resolution with the father even though they disagree about where Max should live. She explained that the father initially said he would just see Maximus every two weeks after he moved. She initially did not wish to have attorneys involved and therefore connected with Debra Gibbons for therapy and felt this might help her and the father to focus on Maximus. According to her, "I didn't want this to get nasty." If the father moved back to Washington State, "this would be resolved" and Maximus "could spend time with his father more frequently with less chunks."

The mother talked about meeting the father in 2005 and they became engaged after three months of dating. They married shortly thereafter in Las Vegas and then moved to London "to explore the world." They "fought a lot" given the "change in environment." She then became pregnant and felt the pregnancy was "rough" and without support she needed from the father. According to her, the father made her do things such as picking up food, taking trains and buses for work and telling her to walk faster, which she felt was all insensitive. Maximus was born in 2008 and the mother recalled the father apologizing during his birth saying he should have been there more.

There were differences in financial views and the mother reported the father was a "big spender" and they had separate finances. She says there were "lots of fights about money" and that one time the father pushed her against the wall. During her pregnancy they would "wrestle" and she felt she had to defend herself. She says she had bruises sometimes and that the father choked her once. When he pushed her, she would push back "but he is a strong guy." She admits she slapped him once and this was because "he'd say the most horrible things" and called her a "frigid cunt and bitch" and that she "deserved abuse." She says the father also broke items, punched the wall and threw things around. The police were never contacted for any of these incidents but the mother says she was "absolutely fearful" of him and that he did these things in front of Maximus also.

Initially, the father "was a doting father" who helped out with Maximus the first few months. They decided to move back to the United States to be closer to friends. In May 2008, they were in California and the father found a job first. She had a few offers but "Microsoft came knocking" and she felt this was "a great opportunity." She accepted a position in Washington and moved with Maximus in August 2008 expecting the father would follow. She says the father was going to move up in April 2009 after finishing a game project he was involved in for work. While she was in Seattle and he was in California, he came up "every 3-4 weeks and would stay a night or two." She and Maximus "rarely" went to California to see the father. By spring 2009, he was still in California and she felt like he wasn't willing to look for a job in Washington. The mother said she was working 40 hours a week at Microsoft and found school, all support and an au pair (nanny) to help with Maximus.

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The father eventually came to Seattle in February 2010 and it was “very difficult” when he eventually moved up. From her perspective, he “didn’t do anything.” She “took Maximus to school, got groceries, made dinner—everything.” She says the father wasn’t working and she would come home and the house would be a mess. She found wine bottles around the house and felt he was drinking during the day.

Thanksgiving 2010 was “the event” according to the mother. They were having a conversation about getting life insurance and she says the father didn’t want to spend the money on it. While picking up food at a restaurant, she says he over tipped the waiter and she and the father got into an argument about that in front of Maximus. She stated the father called her a “bitch” and “cunt” in front of Maximus and that he was “yelling the whole time” and “slamming doors.” He threw things off the table and was “going crazy.” She held Maximus and recalled how she had “numerous discussions” with the father “not to do this with Maximus.” She and the father didn’t talk for a couple of weeks and the father eventually said he wanted a divorce. He went to California in the middle of December 2010 and then told her he was going back to Canada. She felt his goodbye to Maximus was overly dramatic and relayed that he didn’t see Maximus for a few weeks after his move to Canada in January 2011. She then filed for divorce.

After the father’s move, the mother said Maximus started “soiling his pants, had behavior problems and was acting out.” She says she told the father he should “come here” (back to Washington) since it would be better for Maximus. They then started working with Debra Gibbons. By spring 2011, Maximus’ symptoms started to “subside” and he began seeing his father once a month. The mother explains it is 1.75 hours to Bellingham to meet the father and another 45 minutes to the father’s house after that. During one of Maximus’ first visits to Canada, “he was a mess” and came home crying. The mother learned the father was living with his new girlfriend and said “no one knew” that prior to the visit. Around this time, the mother says she had a great opportunity to work in China and that she mentioned this to the father, thinking he might also find work in China and they could both live there and share Maximus. The mother said she mentioned this to the father before learning he was involved in another relationship and that moving out of state is not an interest for her right now.

When asked about the parenting plan, the mother noted she wants “what’s best for Maximus.” She feels he is a happy child with friends.

The mother discussed the father’s allegations about her mental health and feels they are “completely false.” She says the father claimed she was suicidal because she had told him she would “die for my child.” In California in 2000, she said there was a time when she was very concerned about being laid off from her job at the time. She explains that she was scared of losing her job and was saying she didn’t want to live anymore so she called her Employee Assistance Program (EAP). She voluntarily agreed to go to the hospital but relays she doesn’t recall the name of where she went or who she saw since it was “11 years ago.” She stayed one or

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two nights and the “doctor said I was good to do.” She acknowledges a history of (sexual) abuse by her brother and says she has “come to terms” with that. She feels it is “so shameful” for the father to bring these personal things up when they are not relevant or recent.

According to the mother, there are some concerns about the father’s supervision and decisions about Maximus. She described how Maximus returned home from his father’s house last summer and reported he was “itchy.” The mother says she and the nanny found multiple flea/bug bites all over him. According to her, “I always have my nanny there, purposely, to help give extra attention (to Maximus) while I cook dinner.” She reported other concerns about the father not having a booster seat, that the father has previously left Maximus alone in the bath tub and that he “has started dating someone” so soon after their own separation. She believes the father loves Maximus and that he is a father figure to him but she is worried about the father not putting his own needs aside and not reprimanding Maximus enough.

The mother talked about her work schedule and admitted she previously used to work “16 hours a day” but this was before having Maximus. She has reduced the hours of her nanny and indicated the nanny only provides some support or assistance to her and Maximus in the evenings. She relayed she is typically the one who picks Maximus up from school and that she finishes any work after he goes to bed, which is a better time period given time zones related to her work.

V. RE: FATHER (this section is self-reported)

The father initially told this evaluator that it is “very difficult” to communicate with the mother and he noted concerns about the mother proposing to move to China. The father talked about their relationship history and how he had been happy in California but “there was always something in the works” for the mother. He feels her attitude towards him changed after Maximus was born. Ultimately he “rejoined” her after she moved from California to Seattle but he said their relationship became “terrible.”

The father talked about why he could not continue living in Seattle. According to him, “things have changed” and he is building a life in Canada. He said there were problems with him being a foreigner in the US and that “if I lose my job—I’ll have to leave.” His family resides in Vancouver and he is living with his girlfriend, Chelsea Caldwell, who he met shortly after moving to Canada.

He and the mother met in 2005 and in 2007, he and the mother had “our best year.” He talked about their relationship and how he felt the mother was hard to calm down and became emotionally upset easily. He said things were like “a roller coaster” and he didn’t believe this was any cultural thing. However, “when things were good—they were good. She was successful and beautiful.” He noted they traveled together and she “did broaden my horizons.” He feels her history was “horrible” in that her brother sexually abused her and she had previous broken

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engagements and poor relationships with other men. He and the mother “moved super fast” in their relationship and there was “not a lot of middle ground.” After marrying and moving to London, they talked about having children and she soon became pregnant. When Maximus was born, “she wanted to move back to the states” and he felt this was “a good choice to be back there.” He switched careers and said it was really hard to find a job in his particular area of electronic game design.

They moved to California and the mother then accepted a job offer for Microsoft in Seattle. He recalls, “She said she wanted to move to Seattle and I should move too.” Unfortunately, the “gaming economy tanked after she moved.” Their “initial plan was to do the long distance thing for 8 months until after my [work] project was complete.” He started interviewing for jobs but said he wanted to “ship 2 games under my belt as a producer” so he continued working in California until he was eventually laid off in February 2010. He then came up to Seattle and he and the mother “never talked—she was always busy—she was drained out.” They had seen each other when he would fly up every two weeks but when they were living together again, he felt like she was doing her own thing. He feels they grew apart during the time he remained in California.

The father was not able to find work in Seattle and he says the mother called him a “loser” for not paying or contributing to anything. They fought “over things that shouldn’t have been big things.” He talked about how they argued over Thanksgiving 2010 and he says she kept “poking at me” in the car and was saying things to him. When they came inside the house, he slammed things down and “swept all her stuff off the table.” That “was my way of letting off steam.” He admits there were other times he “slammed and crashed things but I never broke anything.” After Thanksgiving 2010, they hadn’t spoken a word to each other in about 20 days and he “checked out” and “she assumed all responsibility for Maximus.”

According to him, there were other fights between him and the mother. She was pregnant during their first major fights. They argued over cleaning out the fridge and he “took out the food and threw it on the floor.” He said he “then took out the freezer food and I stopped her and grabbed her by her wrists but she went down really fast.” The “last thing I wanted to do was to hurt her when she was pregnant—she fell down and I held her—she went for a knife and I went for her wrists.” He said he held them “really tight” and that her wrists were bruised. The father indicated he felt the mother may have hurt him and that she needed to be restrained.

While living in Los Angeles, they had another “massive fight” but he says he “never hit her.” His “best recollection is she was hitting me and I was holding her back.” The third incident he recalled was that the mother didn’t want to talk to him but would “lash” out and then things would escalate into name calling. During one of these episodes, he says he was “pretty mean to her during the fights—I told her I know and understand why guys cheated on you—you deserve to be cheated on.” He said she started punching him after this comment and he “held her wrists

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until she calmed down.” He says he was “pissed off and snarky” but has not meant to hurt the mother. He relayed again that he never hit the mother but “only held her down or grabbed her wrists.” He admits he called her a “cunt and a bitch” and that he “may have called her a bitch in front of Maximus.”

He says he and the mother participated in therapy in 2009 and 2010 and he felt like she would “kick me to the curb if I didn’t have money.” He felt the mother was saving thousands of dollars a month while he was depleting his savings each month without any help from her. He added, “I felt trapped.”

The father said he found the mother’s last will and testament (composed in early 2009) and learned she “wrote me out of the will completely and said she didn’t want Max with me.” He said they had never even talked about having a will. He felt “betrayed” by the mother and said this contributed to the end of the relationship. When he left the mother in Seattle, he felt Maximus was “kind of used to Daddy coming and going” and that he was “fine” with the father’s departure. After moving to Vancouver he felt like he had to “jump through a bunch of hoops” before Maximus could see him in Canada. He indicated he feels like the mother is controlling his time with Maximus.

He talked about Maximus’ early separation anxiety problems and feels “it wasn’t because Mommy hurts him” but that it was because Maximus “doesn’t see me enough.” He says the mother told him it could be fixed if he moved back to Seattle but that she later told him she was interested in a job in China. He indicated several times that his greatest concern would be for the mother and Maximus to move that far away. He believes the mother wants him to disappear so she can have Maximus all to herself. He is very concerned she may still try to move overseas.

Another concern for the father is that the mother has Maximus in extended child care through his school and nanny. He does not feel a nanny should be involved with Maximus outside of school. According to him, the mother “will say Veronica [the nanny] is bonded with Maximus and that she does some light housekeeping.” The father feels the mother is working at home and not caring for Maximus. He reports she is working “60 hours a week” and he believes she will continue job hunting and taking more responsibility in her job duties. He knows she loves Maximus but he feels the best thing would be for Maximus to reside full time with him in one place. He has “an awesome support system” in place and says he will spend time with him and take him places that he feels the mother won’t participate in given her commitments and interest in work and developing her career. He stated, “I felt like I was on thin ice [with the mother] and I see Maximus treating situations like that too, because he wants to see if it is OK to do it before he does it.”

The father also noted concerns about Maximus’ language. The father feels Maximus is “completely fluent in Japanese” and behind in his English speaking. He says the nanny speaks to

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him in Spanish and that he feels Max should be in an English speaking day care to help prepare him for kindergarten. He also feels the nanny may not have known what she was signing in her declaration (in the legal file) and that it wasn't written by her. He doesn't believe the nanny is only working a few hours a week and believes strongly that the mother does not spend much time with Maximus.

He talked about the existing schedule and the Skype phone calls and how it can be difficult to keep Maximus focused on the call and engaged. The father "would love" for the mother to email him things about Maximus and for them to better communicate about Maximus when he is feeling ill or has other issues. He doesn't want to be in "litigation mode" when they talk. They have disagreements about Maximus' schedule and the father explained their activities and plans when he and Maximus are together. He mentioned the flea bites the mother referred to in her declaration and how "she never even asked" him about them. He doesn't feel the mother should be concerned about his parenting in that he loves Maximus very much and tries to give him a little more freedom while with him.

The current schedule requires "6-7 hours round trip" for the father to see Maximus. Because the mother didn't agree to a "Nexus" card, border crossings can take up to "70 minutes" to get across. He also mentioned how he picks up Maximus at 4:30 pm which is peak and rush-hour traffic. At the time of his in-person interview, the father had not yet obtained employment. He stated that when he would, the current plan would probably have to change and Maximus would need to attend day care during the week while living with and/or visiting the father.

Subsequent to his in-person interview, the father has obtained full-time employment in Vancouver. He indicated he has begun researching day cares and schools and is interested in Maximus spending a week with him each month. The father feels very confident he can care for Maximus and cover expenses from child care. He notes his family and his girlfriend's family are also involved and can help care for Maximus if need be.

VI. RE: MINOR CHILD AND HOME VISITS

Max (3 ½) first met this evaluator while at his father's house in Vancouver, Canada. Max presented as quiet, curious, a little sleepy (it was close to nap time) and reserved. He was eating home made pizza for lunch and agreed to give a tour of the house and his room. Max was a little cautious at first but then began showing this evaluator toys and a favorite book in his room. His speech is difficult to understand as he seems to have a hard time enunciating words clearly and much of his conversation was two and three word comments or sentences without pronouns. Sometimes he would refer to something in Japanese. The father was lively, smiling, relaxed and encouraging of Max and Max responded to him well.

The father and his girlfriend live in the upstairs unit of a house she owns in a nice neighborhood about 20 minutes from downtown Vancouver, Canada. There are two bedrooms and an office

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and the space was clean, appropriate and child friendly. Maximus has his own room and there are age appropriate items and toys. As the home visit occurred on Canadian Thanksgiving (10/10/11), the father's family was also present for a few moments. Maximus played with some girl cousins while they jumped on the bed and played dress up. He was quiet and a little cautious though this was not significant. The father has scrapbooked photo albums available for Maximus (with pictures of him and the mother).

This evaluator then traveled to the mother's house on 12/02/11 and observed Maximus with his mother. The home is a two bedroom condo with an open office area that was a little sparse but was tidy, clean and child appropriate. Max has his own room and there were age appropriate items and toys.

Upon the evaluator's arrival, Maximus was friendly, somewhat talkative (though his speech is noticeably simplified and hard to understand), physically active and social and this became even more so during the visit. He gave a tour of the house and had fun showing off toys and tricks. He liked rolling a ball back and forth to this evaluator and giggled. During the home visit, the mother made Japanese food for Max which he slowly but surely ate while sitting in a high chair. Max was physically affectionate with his mother and laughed during play and when appropriate during dinner. The mother was calm, attentive, relaxed and Maximus responded to her well.

VII. COLLATERAL CONTACTS

Chelsea Caldwell, father's girlfriend. Ms. Caldwell noted she was previously married but reports no other children. She described the father as "a very emotionally open person." They met in April 2011 and have been living together in her house shortly after meeting. She is presently going through a divorce.

Ms. Caldwell talked about Max and said "it takes him 12-18 hours to relax" while at their house. The father is "immediately" on things and Maximus is "very warm with Kris." Sometimes Maximus says he misses his Mommy and sometimes he doesn't say this. She talked about how earlier, Max had told her he missed his mother and so he and she looked at pictures in his room together. Ms. Caldwell tells Max "we all love him." She talked about some difficulties with the Skype calls and that the mother is not flexible in timing of the calls even though there have been late night calls on her end. Ms. Caldwell feels it impacts Max when he can't talk to his mother and that Maximus knows when the adults are tense.

She says the father "is very centered" on Max and she added, "I don't want to be with a man who doesn't love his child as much [as the father loves Max]." What Ms. Caldwell wants the mother to know is that "I would never hurt her child. I want her to know Kris is daddy and I don't make major decisions for Max." She would like Maximus to see her as "an adult he can trust" and she states that Maximus is "Chie's son—her baby with Kris." According to her, "Max calls me Chelsea." She also wants the mother to know that the father is "real good with him" and that

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“Max is a totally different kid now than 5 months ago.” She talked about routines, activities and responses to Maximus when he needs attention or affection. She feels both Maximus and the father are “very sensitive to emotions.” She feels Maximus has not had enough time with his father. She feels that “family is very important” to the father and that he is very happy to be back in Canada with his family (and her family) so close by. She expressed concerns the mother might move with Maximus.

Veronica Aldude, Maximus’ nanny. Ms. Aldude completed a parenting questionnaire form (with additional questions from this evaluator) and says that “Before Kris left for Canada, I spent maybe around 20 hours a week” working for the family.” She “worked 3 hours or so each day and on Saturday, I started at 3pm and stayed until 8pm. After Kris left, my work hours are less now because Max is getting big so Chie needs me when she is working like a meeting or telephone meeting.” She says the mother “does not need me too much now so I work 2 days a week sometime and sometime 3 days a week, this change depends on Chie's work.”

Ms. Aldude knows the father and says he was previously “at home always when I took care of Max at home especially after Kris moved to Kirkland. I saw Kris sometimes when he was in Los Angeles. When Chie was on business trip, Kris called me to ask for my help with Max so I saw Kris around. But we did not talk too much because I was working with the baby and Kris was doing his own thing. I saw a lot what's going on at the house, but Kris and I did not talk that much.”

A typical evening with the mother and Maximus used to be her playing with Maximus while the mother cooked dinner so that he would not be by himself or left in front of the television. She would bathe Maximus but the mother put him to bed. Now, “the schedule is different because Max is a big boy.” She sometimes picks up Maximus from school because of the mother’s work schedule. After that, “I play with Maximus when Chie is in a meeting or on the phone working. Sometimes, I help Chie finish cooking the dinner she started because she is still in a meeting. Then, I clean up after Maximus when Chie puts Maximus to bed.” Ms. Aldude likes working for the mother because “she is a very nice person, disciplined with Maximus’ schedule, and responsible. I even turned down other job offers before to stay working with Chie. I like how Chie keeps her schedule.” According to her, “Chie always checks with me how Maximus was at the park and gives him kisses. Maximus is very happy with his mommy when I leave the house. When Kris was in the house, the house was messier. When I arrived at the house, I saw lots of dirty dishes around the house. Kris always said to me he was sorry for the mess. After Kris left, the house became cleaner. When Kris was in the house, Chie cooked the dinner all the time. After Kris left the house, Chie still cooks dinner all the time. Kris cooked, but very few times. Chie worries about giving good dinner for Maximus – she wants to make sure that there are enough vegetables and anything good for Maximus. I love Chie’s cooking too.”

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She described Maximus as “a good baby” and a GOOD boy.” When the mother is working in the house, she is always near Maximus and so she is always there to watch Maximus even when she is working. She feels they have a loving relationship. According to her, “I saw a different relationship with Kris and Maximus. I don’t know if it was because Kris was not living with Chie and Maximus at the beginning. But I saw Maximus did not play with Kris or did not want to be near Kris. When Kris tried to be next to Maximus, Maximus often refused. I was worried about Maximus’ reaction. Sometimes I thought maybe Kris might have hurt Maximus. I saw Kris on his computer all the time. He did not eat with Chie and Maximus very much. When Kris sometimes tried to put Maximus to sleep at night, Maximus cried for his mommy. When Chie was on business trip and not home, Maximus still cried for mommy. Maximus even asked me to put him to sleep instead of Kris. I feel bad about saying this about Kris, but this is the truth. I worried so much about maybe Kris doing bad things to Maximus, I checked Maximus lower body to see if there were any signs of abuse. It was really strange for me because I never saw Kris hurting Maximus, but his reaction to Kris was strange. I saw Kris trying to get Maximus’ attention by playing with him or showing him games on the computer. But Maximus fought to be away from Kris. After Kris went back to Canada, I see Maximus talking to Kris on Skype. Maximus does not like talking to Kris. A few weeks ago, Chie was working so she was not home. Kris called my cell phone to talk to Maximus. Maximus did not want to say anything, and I think Kris hung up after some time. When Maximus is talking on Skype, I see Kris tried to get Maximus’ attention by showing different things. But Maximus does not like talking to Kris. I have seen other babies with their fathers, and I see the love that babies express. I have not seen Maximus expressing that kind of love for Kris. I see the love between Chie and Maximus, but I don’t see it between Kris and Maximus.”

She has observed the insect bites, bruises, and a big bump on Maximus’ head after returning from a visit with the father. She says, “I accidentally found the bump because I was stroking Maximus’ head and he screamed with pain and said ‘don’t touch. I got this at daddy’s house.’ Most recently, I saw bad skin rash on Maximus’ bottom. I am worried about what’s happening with Maximus while in Canada.” She reports, “When I say to Maximus that it’s almost time to go to Canada, he tells me that he does not want to go to Canada. I see that Maximus is having hard times when he goes to Canada. He is too young to understand what’s happening. Maybe when he is older, he can understand better what’s happening. Kris is opposite of Chie when it comes to taking care of Maximus. Kris is like a child. He does not worry about anything that could happen to Maximus. He always said ‘everything is fine’ and does not worry. Chie is more responsible.”

Ms. Aldude concludes that she feels the father “needs to know that Chie and Kris have to be friends for Maximus. Be nice to each other and be respectful. The most important thing is Kris needs to change and be nice. I know Chie. She wants to make peace with Kris. Kris needs to get Maximus’ love first and then Maximus will love him back. Kris cannot force Maximus to love him. Kris needs to be friendly.” She “told Chie she is the best mother I have seen. She is

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the best – believe me. I enjoy talking to Maximus in Spanish and he understands me very well. He talks to Chie in Japanese. It’s good that Maximus is learning 3 languages.”

Mark Hale, LMFT, parties’ previous marriage therapist. Mr. Hale told this evaluator he had nothing to add regarding the parties and said, “I don’t feel qualified to make recommendations or give information.” He last saw them “over 1 ½ years ago” and had “worked only on marital dynamics.” According to him, “there was nothing about putting their child at risk and nothing about parenting or parenting skills.”

Sachiko Reece, parties’ previous marriage therapist. Dr. Reece worked with the parties a few years ago and was out of her office during the last few weeks and unable to be reached for comments.

Sugniko Horizons, child’s daycare/pre-school. Tomoe Umeta is Max’s preschool teacher and she completed a questionnaire form indicating she has known Max and his mother for about 5 months. She has “never really talked to the father” and said “he just usually comes to pick up or drop him off at times.” Ms. Umeta reports the mother is “very cheerful” and that she “calmly but precisely disciplines him.” Max “is always clean” and “they seem to have a good and strong relationship.” As long as she’s known Max, she feels “he has been a calm and pleasant child” and “stable most of the time.” She feels the parents need “to keep respecting each other” to help create peace.

Katori Shion, assistant director, Sugniko Horizons noted Maximus normally is dropped off and picked up by his mother at “7:30 am” and is picked up “around 5:30 pm.” He usually “is in our care for about ten hours. Sometimes, he gets picked up earlier.” She reports “sometimes his nanny, Veronica picks up. His father picks him up once a month.” Ms. Shion is “in touch with mother daily, but I never really talked to the father before.” She reports she does not have any concerns about Maximus in their care.

Debra Gibbons, MS, LMFT, family therapist. Ms. Gibbons reports she is a licensed marriage and family therapist and child specialist with 18 years of experience. She says the mother initially contacted her because of concerns with Max’s behavioral problems, including “separation anxiety and confusion.” She says there were reported “disrupted behaviors after the parents broke up and Dad moved to Vancouver.” Ms. Gibbons believes the father moved to Vancouver because of “his family and support system are there” and because of “some issues with his citizenship.”

Ms. Gibbons says the mother “wanted input and help for her and Kris.” She had 6 sessions with the mother and father (appearing by Skype). According to her, the mother “seems conscientious, [is] a busy parent and was having a hard time with Max.” Ms. Gibbons says the mother “seems to anticipate things better and is more mature for Max” and “makes more appropriate and better

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choices regarding food and movie and television viewings.” She feels the father appeared “less mature and less prepared” and that she worked with the father on helping Max with transitions and telling Max that both parents loved him. Ms. Gibbons said there “should be no negativity for Max” and that he needs “continuity.” She also added that both parents are “good people—not bad or negligent” and that there are no allegations of drugs or other “dysfunction.”

The last session Ms. Gibbons had was with the mother about 4 weeks ago and she feels “things have stabilized” and “people seem to be practicing what they should be.” When asked what should continue happening, she relayed, “just following rules” and she would like to see that the father keeps Max on a schedule at his house that is similar to the mother’s. This would help with transitions for Max. She says the father did bring up concerns that Max was being cared for by a nanny when the mother was available but Ms. Gibbons says the mother reported she is with Max during evenings and weekends. Ms. Gibbons did not have concerns about this issue.

Concluding, Ms. Gibbons reiterated again that the parents were “not bad parents” though according to her, “the mother has the stability and maturity” and she has some “concerns about Max with Kris” given the support Max needs in schedules and transitions.

VIII. ANALYSIS OF INFORMATION:

This case was referred for a parenting plan evaluation that will maximize Maximus’ emotional, physical, academic and psychological needs. The significant issue in this case is that both parents are comfortable in their choices of residence and naturally want their child to be with them. Because of this, Maximus will have two parents who live a good distance apart from one another. There are no serious allegations or concerns about either parent and it seems the resulting situation is unfortunate and with no easy answers or solutions. Ideally, both parents would live closer together and Maximus could have frequent access to both parents and their unique contributions to his life and development. Having said that, Maximus will still need both of his parents throughout his life and will benefit from their indirect support of each other’s relationship with him, regardless of where he (and they) live.

As previously stated, it is in Maximus’ best interests to have healthy relationships with both parents and to be exposed to as little conflict as possible, despite the outcome of this litigious process. The issues at stake here ultimately create a winner and loser in this family, which is not the aim of this evaluation. The idea for both parents is how they can a) co-parent despite the distance between them and b) how to support Max when they live with such a distance. The recommendations listed in Section IX, 3.13 are meant to help facilitate this.

To aid in recommendations for a final parenting plan and decision about Maximus, **the criteria for establishing a parenting plan are reviewed as follows. Given this information, it is recommended that Maximus primarily continue living with his mother but have increased contact with his father.**

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The relative strength, nature and stability of the child's relationship with each parent: In brief observations, Max seems attached to both parents though the information reviewed for this evaluation supports that the mother has been the primary care giver for most of his life. Though this may be due to circumstances (most notably, the mother and child living in Washington for an extended period of time during precious years of Maximus' infancy and the father moving and living in Canada for almost the last year), it is the history and situation that Maximus is used to. The nanny and therapist (Debra Gibbons) made positive comments about the mother's relationship and parenting of Maximus though, arguably, they have both had more in-person contact and observation of the mother than the father. The father's references spoke highly of his relationship and parenting of Maximus though there was a common thread by all that Maximus needs time to adjust when visiting the father and being away from his mother. The father's references noted his love for Maximus and his desire to be a part of his life.

In this evaluation, both parents were appropriate, timely, calm, focused on Maximus and open to any suggestions about his well-being. The father has suggested that he feels Maximus would do best in his primary care, but this can't really be supported given the information and opinions shared for this evaluation. Both parents clearly love Maximus but making a primary change in placement would disrupt his world and his attachment with his mother and stable life in Washington. However, Maximus should have more time with the father and this may help with transitions and allow Maximus to have a growing relationship with his father that both of them deserve (and seem capable of).

The agreements of the parties, provided they were entered into knowingly and voluntarily: Does not apply.

Each parent's past and potential for future performance of parenting functions, including whether a parent has taken greater responsibility for performing parenting functions relating to daily needs of the children: The mother has had the primary role of caring for Max for most of his life and this was increased due to her past move to Washington as well as the father's recent move to Canada. The mother has relayed she wishes the father could live in Washington so that they could both be a part of the child's life. The father says this is not possible and that he feels Maximus is better off living with him. Ideally, both parents would live within the same vicinity. It is understandable that the mother would need day care and support from a nanny given that she has been mostly parenting Maximus as a single parent given the father's out of state residences for most of Maximus' life. The information from Maximus' school and nanny did not suggest the mother has a pattern of neglect or abuse of resources. As the father commented, Maximus would also be in day care should he be living with the father. Given the father's lack of employment (previously), the mother has needed to maintain ongoing work in order to accommodate and provide for Maximus, so this issue is not as much of a concern, since it is a practicality.

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Both parents seem capable to continue to provide care and love for Maximus though both parents seem to have different interpretations of the other's intentions and perhaps they realize now the differences in their parenting, personalities and cultures. Both parents seem like they are now trying to be sensitive to Maximus' needs and he will benefit from this.

The emotional needs and developmental level of the child: Maximus is very young still and both parents are vigilant about his development, language and adaptability. Both made comments about him having some difficulties with transitions and adjustments to change, though perhaps more so (or more identified) with the father. This may be due to the current circumstances and his acting out frustrations from the changes in his family life but may also be a developmental or temperament issue that may pass.

Maximus' speech, as observed, did raise some questions and concerns. Though he may have just been shy around this evaluator, his speech is not as comprehensible, fluent and articulate as other children who are his age (almost four years old). The father has raised this as a concern and that Maximus may be having difficulty learning English when his mother speaks often (or mostly) in Japanese to him and his nanny speaks in Spanish. Maximus' preschool also speaks in Japanese. Since children of preschool ages are usually trying to master one language, learning three languages may prove to be very challenging and competing with one another and it doesn't seem to be helping Maximus properly grasp one language. This might contribute to some of his uneasiness in transitions, since his father speaks English and this may not be Maximus' primary language as of yet. Eliminating Spanish and increasing English at home with his mother might help this issue from growing.

The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities: The information reviewed for this evaluation supports that Max has primarily resided in Washington and has friends and a life in Seattle which he is used to; he has been at the same school the past year and the mother reports he has had play dates with friends outside of school—with children he has known since he was a toddler. Additionally, by both parent's reports, Max has already moved a few times in his life and a move to Canada has several unknowns for Max, including what it may be like to be away from his mother for extended periods of time. The parents and collaterals indicate some concern that Maximus often asks for his mother or misses her when he is with his father. This may change over time, and as Maximus becomes older, but for now, he is still at a sensitive age and perhaps might be confused over the schedule and why his parents live so far apart from one another. His language difficulties may also not allow him to properly express himself.

The father has expressed concerns about the mother relocating and this is a valid concern. Relocating would bring several additional and confusing changes for Max and would then even more so (possibly) restrict the father's time to a serious degree. Given that Maximus has a stable

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life in Washington, disrupting this to another state or country would not really be in his best interests at this time, at Maximus' young age, and would need further and formal evaluation.

The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule: Does not apply. Max is only 3 ½ years old. Ideally, both parents would live within a reasonable proximity so that Maximus could spend time with both of them.

Each parent's employment schedule, and shall make accommodations consistent with those schedules: Both parents are professionally employed and work Monday through Friday. Maximus would be in lengthy daycare while residing with either parent.

Further discussion:

The purpose of this evaluation is not to determine who the best parent is. It is believed both appear to have unique gifts, personalities and obvious love for Maximus. The idea behind this evaluation is to determine how to resolve the differences in each parent's residential locations, with the idea and goal of helping Maximus to flourish as best as possible. The foregoing review of the statutory criteria for developing a parenting plan suggests that the child should remain primarily with the mother. However, if both parents were to reside within the same school district, a shared residential schedule would be strongly considered.

Despite the distance, the father is encouraged to continue finding new ways to remain emotionally close to Maximus, even though he may not physically be close. They can brainstorm ideas on how to stay connected to one another despite his distance and competing schedules between them. The father could send letters, postcards and packages; he and Max could have a rotating journal detailing their daily events they both fill out for a week or so and then mail back to the other. They can pick a time to 'meet' online and perhaps play a game or explore a web site together. They currently communicate through Skype and it would be a great idea to continue this, regardless of if Maximus can't or won't concentrate sometimes; the idea is to try and make this a habit. This all serves Max's best interests and promotes his relationship with his father; he will need this kind of relationship and consistency from him. For more ideas about long distance parenting, the father can view the following web site <http://www.co.bannock.id.us/dmoretip.htm>.

Given the expenses and coordination, it doesn't seem likely that the father will be able to exercise more than perhaps one weekend contact a month, so the following recommendations provide for the father to have contact with Maximus the first weekend of every month in addition to several holidays, three day weekends and every Canadian Thanksgiving. Should the father's schedule and/or finances change to where he can continuously exercise two weekends each month, then he should have two weekends each month. At this time, at a minimum, one weekend is recommended so all can plan accordingly.

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Though there are communication and minor conflict issues present, there are no serious allegations which would lead to any restrictions according to RCW 26.09.191. The father admitted to some emotional abuse of the mother, as well as incidents in which he would be supported to be the primary aggressor. He has noted restrictions for the mother on his proposed parenting plan, though she did not on hers and against him. Rather, she noted consistently that she wants to work with and get along with the father for Maximus' sake (this was referenced in counseling notes, by collaterals and in the mother's comments of wanting the father to move back to Washington State). Use of physical force is not appropriate and some of the father's actions created credible fear in the mother. Restrictions were considered for the father but are not entirely supported given the current situation, the reduction in direct conflict and the hope that both parties can focus on Maximus and not on each other. There are many other issues both parents raised concerning the other, however, many of these issues appear to be the result of their situations, lack of trust, physical and emotional distance and the pending litigious process.

The following recommendations have been made to try to maximize Maximus' time with his father—which could result in monthly visits with one another as well as extra time in summer and other holidays. It is highly recommended that the father make more of a presence in Maximus' Washington life. Maximus would probably really benefit from the father spending time with him in Washington (though this may be tough for many reasons). It might help Maximus feel like his parents and his world is more integrated. He may really enjoy sharing his day-to-day activities with his father.

IX. RECOMMENDATIONS

I. and II. Limitations pursuant to RCW 26.09.191: None for either parent.

III. Residential schedule

3.1 Same as 3.2

3.2 The child should reside with the mother except when he is with the father as follows:

The first weekend of every month from Thursday after school until Sunday evening at 6:00 pm (unless there is no school or the father can take off work on Monday—then it is recommended to have time through Monday evening at 6:00 pm) in addition to holidays, three day weekends and more outlined in the following recommendations. In the event there is no school on Monday, the father should have until 6:00 pm.

If possible, the father should also have the third weekend of every month as

outlined above.

If possible, the father should have an additional weekend of every month with Maximus in Washington, from Thursday after school until Sunday evening at 6:00 pm (unless there is not school on Monday). The father should provide the mother with his hotel/location information.

3.3 The child shall reside with each parent during winter vacation as follows:

Maximus should have two weeks with his father in odd numbered years, and one week with his father in even numbered years.

3.4 The child shall reside with each parent during mid-winter and spring vacations as follows:

Every mid-Winter vacation with the father.

Every Spring vacation with the father.

3.5 Upon completion of the school year, the child shall reside with each parent during the summers as follows:

For summer 2012, the father should have Maximus up to three weeks, with no more than 7 consecutive days in a row.

Starting 2013, the father may have up to two uninterrupted weeks at the beginning of summer, starting after the last day of school. He should then have up to two weeks the last few weeks of summer leading up to before school starts. The father should notify the mother no later than April 1st each year of the specific dates and travel plans for his summer contact. Maximus should be with the mother the 5 days prior to school starting.

Starting summer 2015, the father should have up to three uninterrupted weeks at the beginning of summer, starting after the last day of school. He should then have up to two weeks the last few weeks of summer leading up to before school starts. The father should notify the mother no later than April 1st each year of the specific dates and travel plans for his summer contact. Maximus should be with the mother the 5 days prior to school starting.

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3.6 Vacation with Parents:

With a minimum of sixty days written notice to the other parent, each parent is entitled to two weeks with the children for vacation purposes. In the event of a conflict, the mother's requests take priority in odd numbered years and the father's requests take priority in even numbered years. Parties will notify each other of their chosen dates by April 1st of each year. Any international travel will require advance written approval by the other parent and detailed travel and contact information needs to be provided to the other parent two weeks prior to the trip commencing.

3.7 The residential schedule for the children for the holidays listed below is as follows:

	<u>WITH MOTHER</u> Specify Year – Odd/Even/Every	<u>WITH FATHER</u> Specify Year – Odd/Even/Every
New Year's Day	As in 3.3	As in 3.3
Martin Luther King Day	-----	Every
Presidents' Day	-----	As in 3.4----Every
Memorial Day	Odd	Every
July 4 th	As in 3.5	As in 3.5
Labor Day	As in 3.5	As in 3.5
Thanksgiving*	Even	Odd
Winter break/Christmas Canadian	As in 3.3 -----	As in 3.3 Every
Thanksgiving**		

*Thanksgiving should begin Wednesday after school until Sunday evening at 6:00 pm. **Canadian Thanksgiving can begin Friday after school until Tuesday morning drop off at school (or Monday evening at 6:00 pm).

3.8 **Special occasions:** The mother should have the child on the mother's birthday and on Mother's Day. The father should have the child on the father's birthday/birthday weekend and on Father's Day (for that weekend). The child should be with his mother on his birthday in odd years and with the father on his birthday in even years.

3.9 Priorities under the residential schedule

If the residential schedule, paragraphs 3.1 - 3.8, results in a conflict where the children are scheduled to be with both parents at the same time, the conflict shall be resolved by priority being given as follows:

Rank the order of priority, with 1 being given the highest priority:

<u>7</u> school schedule (3.1, 3.2)	<u>3</u> vacation with parents (3.6)
<u>6</u> winter vacation (3.3)	<u>1</u> holidays (3.7)
<u>5</u> other vacations (3.4)	<u>2</u> special occasions (3.8)
<u>4</u> summer schedule (3.5)	

3.10 Restrictions.

Does not apply.

3.11 Transportation Arrangements

Transportation arrangements for the child, between parents shall be as follows:
The parents should exchange Maximus in Bellingham unless otherwise agreed.

3.12 DESIGNATION OF CUSTODIAN.

The child named in this parenting plan is scheduled to reside the majority of the time with the mother. This parent is designated the custodian of the child solely for purposes of all other state and federal statutes which require a designation or determination of custody. This designation shall not affect either parent's rights and responsibilities under this parenting plan.

3.13 OTHER.

It is expected that the parenting plan residential provisions will be flexible and adaptable in accordance with the child's changing needs. As the child increases in age and maturity the child's needs and desires will become increasingly important and will be considered by both parents in scheduling residential time.

The parents understand that this residential schedule represents a minimum amount of time that the child will reside with the parents and that the child may reside with them at any other agreed to times.

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Both parents may participate in school and extra-curricular activities for the child regardless of the residential schedule.

Each parent shall have equal and independent authority to confer with school, child care and other program personnel regarding the child's progress and each parent shall have full and equal access to the education and health care records of the child absent a court order to the contrary. Neither parent may veto the access requested by the other parent. Education records are limited to academic, attendance, and disciplinary records of public and private schools in all grades, kindergarten through twelve, and any form of alternative school for all periods for which child support is paid or the child is the dependent in fact of the parent requesting access to the records. Education records of post-secondary educational institutions are limited to enrollment and academic records necessary to determine, establish, or continue support.

Each parent desires to remain responsible and active in their child's growth and development consistent with the best interests of the child. Both parents shall make a sincere effort to maintain open, ongoing communications concerning the development, needs and interest of the child and shall discuss together any major decisions which have to be made about or for the child.

Both parents should be informed of the child's school activities and conferences by email or certified mail. Both parents should provide each child's treatment and school information status, weekly appointments and contact information for any providers to the other party by email or certified mail. Neither parent should have any of the child deliver messages to the other.

Each parent shall provide the other with the address and telephone number of his/her residence and workplace and update such information promptly whenever it changes.

Each parent should have unrestricted telephone, Skype and email access to the child, and the child should have unrestricted telephone and email contact with the parents. The parents should agree to a specific time each night for the father and child to talk by phone and the mother should make the child available for such calls.

Neither parent, nor any other adult in their presence, shall make any disparaging remarks about the other in the presence of the child.

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Each parent shall inform the other when that parent plans to be away from his or her residence with the child overnight. If either parent travels overnight without plans to take the child, the parents should have email, written or telephone contact to alert the parent of the accommodations for the child.

Each parent shall exert every reasonable effort to maintain free access and unhampered contact and communication between the child and the other parent, and promote the emotions of affection, love and respect between the child and the other parent. Each parent agrees to refrain from words or conduct, and further agrees to discourage other persons from uttering words or engaging in conduct, which would have a tendency to estrange the child from the other parent, to damage the opinion of the child as to the other parent, or to impair the natural development of the child's love and respect for the other parent.

Each parent shall honor the other parent's parenting style, privacy and authority. Neither parent shall interfere in the parenting style of the other nor shall either parent make plans or arrangements that would impinge upon the other parent's authority or time with the child, without the express agreement of the other parent. Each parent shall encourage the child to discuss his or her grievance against a parent directly with the parent in question. It is the intent of both parents to encourage a direct parent-child bond and communication.

Neither parent shall encourage the child to change their primary residence and neither parent shall advise the children of any child support or other legal matters.

Neither parent shall use the child, directly or indirectly, to gather information about the other parent or take verbal messages to the other parent.

Neither parent shall schedule activities that interfere with the other parent's residential time with the child or impose a financial burden on the other parent without that parent's consent.

The parents shall speak to each other via email only regarding issues relating to the children's health, welfare, education and the parenting plan issues.

If a parent wishes to make a major decision regarding the child, the parent may notify the other parent in writing of his/her intended action. The other parent may object to the intended action in writing within 21 days. If the other parent does not object in writing within 21 days, the notifying parent can take the action stated in the written notice. If the other parent objects to the action in writing within 21 days, the parents will follow the dispute resolution provisions below.

The parents may revise the parenting plan by mutual consent in writing at any time.

It is recommended that the father (and the mother, if feasible) obtain a Nexus card for Maximus to allow for faster and more efficient border crossings. Should the mother need to go into Canada for any reason involving Maximus (such as an emergency), a Nexus card would be beneficial.

IV. Decision making responsibilities: Joint decision making.

V. Future dispute resolution: Mediation.

Respectfully submitted,



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