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THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

Case No. 2018-0264

In the Matter of Steven Summers and Christine Summers

Rule 7 Discretionary Appeal  
From Decision Of The 9<sup>th</sup> Circuit – Family Division – Merrimack

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NEW HAMPSHIRE  
SUPREME COURT  
2019 MAR 28 A 9 45

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**BRIEF OF PETITIONER/APPELLEE, STEVEN M. SUMMERS**

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### Questions Presented For Review

- I. The Family Court did not unreasonably rule that Ms. Summers proposed shared Parenting Plan submitted to the Court was a request for a substantial change.
- II. The Family Court did not abuse its discretionary powers and did not arbitrarily fail to return Ms. Summers to shared parenting of her minor children.
- III. The Family Court did not establish a criteria for a Review Hearing to determine if shared parenting was in the best interests of the minor children.
- IV. The Family Court did not unreasonably interfere with Ms. Summers' parental rights when it denied her request for a shared Parenting Plan.
- V. The Family Court did not abuse its discretion and/or make an error of fact and/or law in characterizing the Parenting Plan as a Final Parenting Plan.
- VI. The trial court made an error of law when it stated in the Final Order on Parenting Plan, which was in addition to the Final Parenting Plan, that the Final Parenting Plan was subject to review in 6 months to determine if the parenting schedule should be modified to again allow shared or equal parenting time.
- VII. The trial court made an error of law when it entered a Final Parenting Plan but also ordered a separate Order that a Review Hearing would be scheduled in 6 months for a potential major modification of the Parenting Plan.
- VIII. The trial court made an error of law when it provided for a Review Hearing of the Final Parenting Plan and it did not provide that the Respondent would need to satisfy the predicate circumstances for modification as required by RSA 461-A:11, I.

**Constitutional Provisions, Statutes, Ordinances, Rules, or Regulations Involved**

RSA 461-A:11, I , RSA 461-A:11, I(f)

The modification makes either a minimal change or no change in the allocation of parenting time between the parents, and the court determines that such change would be in the best interests of the child.

RSA 461-A:11, II

Except as provided in RSA 461-A:11 I(b)-(i) for parenting schedules and RSA 461-A:12 for a request to relocate the residence of a child, the court may issue an order modifying any section of a permanent parenting plan based on the best interest of the child. RSA 461-A:5, III shall apply to any request to modify decision-making responsibility.

RSA 461-A:6

Determination of Parental Rights and Responsibilities; Best Interest.

### **Statement of the Facts and the Case**

By a Notice of Decision dated October 31, 2016 the Court issued a Final Order, Final Decree of Divorce, Final Parenting Plan and Final Order on Parenting Plan. Respondent's ("Resp.") Appendix ("Appx.") Page ("pg.") 3. The issuance of these Final Orders came after the parties completed a multi-day Final Hearing for their divorce case in September of 2015. Prior to the entry of the Final Decree on October 30, 2016, the Court held several hearings on Emergency Motions filed by the Petitioner. The Petitioner filed a Second Emergency Motion to Suspend Respondent's Parenting Rights on June 24, 2016. Pet. Appx. pg. 68. This Second Emergency Motion to Suspend Respondent's Parenting Rights came after the Petitioner had filed a First Emergency Motion to Suspend Respondent's Temporary Parenting Rights on March 8, 2016. The First Emergency Motion was filed because the Petitioner learned that a domestic disturbance occurred at Christine's parents' house in Merrimack and that Christine was removed from her parents' home by the Merrimack Police, all while the children were at the home. The Second Emergency Motion was filed because it was found that Christine had been arrested two (2) times in one (1) week for a DWI. During the temporary phase of this case, Christine was arrested four (4) times and charged with the offense of DWI, four (4) times. In its Final Order, the Court noted that all of the hearings after the Final Hearing were as a result of Ms. Summers not being honest and forthright with the Court and the Guardian ad Litem regarding her alcoholism.

The Court issued a Final Parenting Plan for this matter. Resp. Appx. pg. 6. In Paragraph B.1. in the Final Parenting Plan the Court ordered: "The children shall reside primarily with Steven Summers, except for the following days and times when Christine

Summers shall have parenting time with the children: every other weekend from Friday after school until Sunday at 7:00 pm every Wednesday from after school and Thursday morning at the beginning of school if there is no school on the Thursday then 8:00 am. Ms. Summers resides with her parents. Ms. Summers' parenting time shall be supervised by her parents until the Parenting Plan is modified by agreement of the parties or an order from this court." The Parenting Plan further provided that Christine shall not consume alcohol and shall continue in the Paymer Associates Program until such time as there is a further Review Hearing. Paragraph C.1. of the Parenting Plan provided as follows: "The children shall attend school in the school district where the parent primary residential responsibility resides. Under this Plan, the parent is Steven Summers." Resp. Appx. pg. 9. Immediately following the issuance of the Final Decree and Final Parenting Plan, the Petitioner filed a Partially Assented to Third Emergency Motion to Suspend Respondent's Parenting Rights. Petitioner's ("Pet.") Appx. pg. 25. The Court granted the Emergency Motion and entered an Order on Ex Parte (Emergency) Motion whereby the Petitioner shall have temporary sole decision-making and residential responsibility for the minor children. The Respondent's parenting time was suspended. A hearing was scheduled on this matter on December 6, 2016. Pet. Appx. pg. 49. By a Notice of Decision dated February 7, 2017 the Court entered an Order on Mr. Summers' Ex Parte Motion. Pet. Appx. pg. 55. In its Order, the Court stated in part as follows: "1) Mr. Summers' Ex Parte Motion is denied. However the court finds that he was justified in bringing it and awards him reasonable attorney's fees for the cost of bringing it. Counsel for Mr. Summers shall submit an Affidavit of Attorney's Fees for the court's approval. 2) The court's Final Parenting Plan is back in effect with the exception that Ms. Summers' Wednesday parenting time shall be



from 5:00 pm until 8:00 pm not overnight.”

In addition to issuing a Final Parenting Plan, the Court issued a Final Order on Parenting Plan. Resp. Appx. pg. 4. In its Order, the Court stated in part as follows: “While the attached Parenting Plan is Final, it is subject to review in 6 months to determine if the parenting schedule should be modified to again allow shared or equal parenting time. Any change or modification in the Parenting Plan shall be subject to Ms. Summers addressing her alcoholism in a meaningful way which would include at a minimum participation in an Intensive Outpatient Program, her continued sobriety as shown with compliance with Paymer Associates rules and whether a modification is in the best interests of the children.” Further, in its Order, the Court considered the statutory factors in RSA 461-A:6 when it stated as follows: “Based upon Ms. Summers’ alcohol addiction and her actions in hiding or minimizing her addiction from the Court, Mr. Summers, her parents and the GAL and taking into account the testimony of the parties, the testimony and Reports of the Gal and all of the statutory Criteria the Court finds that shared/equal parenting time is not in the children’s best interests.” In the last paragraph of the Order, the Court indicated that the Clerk is to schedule a 1 hour Review Hearing in approximately 6 months to determine whether the Final Parenting Plan should be modified.

No six (6) month Review Hearing ever occurred in this matter. Because Christine was not abstaining from alcohol use, she was repeatedly testing positive for alcohol consumption and she had not completed an Intensive Outpatient Alcohol Treatment Program. Transcript (“Tr.”) pg. 24, Line (“ln.”) 4-12.

Based upon a Motion filed by Ms. Summers, a Review Hearing was held in this matter on February 6, 2018. Resp. Brief (“Br.”) pg. 32. At the Review Hearing, Christine

was looking for the Court to make a major modification in the Parenting Plan from primary residential responsibility to Steve to a shared or 50/50 Parenting Plan. By a Notice of Decision dated April 2, 2018, the Court issued an Order on Review Hearing. Resp. Br. pgs. 31, 32, 33. In its Order, the Court stated in part as follows: “Ms. Summer (sic) is requesting the Court to make a substantial change in the Final Parenting Plan. While the Court did allow for the possibility of a modification of the Final Parenting Plan in its Final Order, the Court did not allow for their to be a modification of the Final Parenting Plan such that Ms. Summers would have shared parenting time as she is requesting of the Court. While the Court recognizes that it is Mr. Summers’ position that the Court lacks the statutory authority to make any modification of the Final Parenting Plan 461-A:11, the Court asserts that it can when the Final Order allowed for a modification based upon Ms. Summers meeting certain criteria.” In its Order, the Court did substantially modify the Final Parenting Plan by indicating that Ms. Summers would have unsupervised parenting time every other weekend from Friday at 5:00 pm until Sunday at 7:00 pm and she would have parenting time every Wednesday from 5:00 pm until Thursday morning at 8:00 am.

In her Motion to Schedule Review Hearing (Pet. Appx. pg. 58) and at the Review Hearing, Ms. Summers argued that the parenting schedule should be modified to again allow for shared or equal parenting time. Tr. pg. 31, ln. 5-13. In reality, Ms. Summers never actually had shared or equal parenting time. The Temporary Order for this matter, which was issued by a Notice of Decision dated August 21, 2014, awarded Steven the temporary and exclusive occupancy of the marital home located at 40 Wellesley Drive, Bedford, New Hampshire. Pet. Appx. pg. 27. The Temporary Parenting Plan outlined the routine parenting schedule for the parties and also specifically noted that overnight

parenting time for Christine was to be supervised by one of her parents. Pet. Appx. pg. 36. From the issuance of the Temporary Order in this matter by a Notice of Decision dated August 21, 2014 to the issuance of the Order on the Review Hearing, by a Notice of Decision dated April 2, 2018, Christine either had supervised parenting time or suspended parenting time. It can hardly be said that Christine ever had shared parenting time with the minor children.

### **Summary of Argument**

At the Review Hearing for this case, which was scheduled on February 6, 2018, the Respondent requested that the Court modify the Final Parenting Plan from a Plan that awarded the Petitioner primary residential responsibility and supervised parenting time to the Respondent, to a Plan that awarded unsupervised parenting time to the Respondent, based upon a shared parenting schedule. This is clearly a major modification of the Final Parenting Plan. The Court was correct when it stated that the Plan proposed by Christine (Pet. Appx. pg. 40) was a request for a substantial change.

The Respondent has argued that the Court abused its discretionary power and arbitrarily failed to return Ms. Summers to a shared Parenting Plan with her minor children. The record for this matter clearly reflects the fact that Christine never enjoyed a shared Parenting Plan. For approximately twenty-six (26) months, Christine either had supervised parenting time with her children or her parenting time was temporarily suspended. Secondly, the Respondent claims that the Court abused its discretionary powers by not granting her a modification of the Final Parenting Plan to include a shared Parenting Plan. The Court does not have such discretionary powers and the Court only has the power granted to it by RSA 461-A:11, I.

The Family Court does not have independent authority to establish criteria for a Review Hearing to determine if the parenting schedule should be changed from a Parenting Plan awarding one party primary residential responsibility and the other party's supervised parenting time to a shared or 50/50 Parenting Plan. The only authority that the Court has to modify a Final Parenting Plan is outlined in RSA 461-A:11, I.

The Respondent had no right to expect that the Court would grant her a modification of the Parenting Plan as she requested in her Motion and she requested at the Review Hearing. In her Motion, the Respondent did not outline any of the statutory criteria that would warrant a modification of a Final Parenting Plan. The Respondent never appealed the Final Parenting Plan.

The Respondent is now trying to argue that even though the Family Court clearly labeled the Parenting Plan as a Final Parenting Plan, it was in fact a Temporary Parenting Plan. At the Final Hearing for this matter, both parties submitted proposed, Final Parenting Plans. Neither party requested the Court to enter a Temporary Parenting Plan. The Court considered the statutory criteria for developing a Parenting Plan and found that a shared Parenting Plan would not be in the best interests of the parties' minor children. A Final Parenting Plan provides finality for the minor children and the parties. A Final Parenting Plan allows the parties to move on with their lives and hopefully not be embroiled in continuous litigation concerning the Parenting Plan. A Parenting Plan that allows for perpetual change does not provide a foundation for stability and it is not in the best interests of the minor children.

The Final Parenting Plan for this matter was entered approximately twenty-six (26) months after the Court issued a Temporary Parenting Plan. The Family Court made an

error of law when it stated in the Final Order on Parenting Plan that the Parenting Plan was subject to a review in 6 months to determine if the parenting schedule should be modified to again allow shared or equal parenting time. There is no statutory authority for such a Review Hearing. A Final Parenting Plan may only be modified pursuant to the criteria enumerated in RSA 461-A:11, I. The statute does not grant the Court discretionary authority to modify a Final Parenting Plan.

Once a Final Parenting Plan has been entered, the Court has no independent authority to modify the Plan. The only authority that the Court has to modify a Final Parenting Plan is outlined in RSA 461-A:11, I. A Final Parenting Plan would only be modified if a Motion was filed by one party alleging the criteria for a modification outlined in the statute.

After entering a Final Parenting Plan, the Court does not have the authority to order that a Review Hearing will be scheduled in the future to possibly institute a significant change or modification to the Parenting Plan. Christine never appealed the Final Parenting Plan. In her Motion for a Review Hearing and at the Review Hearing in this matter, the Respondent did not allege the predicate circumstances for a modification as required by RSA 461-A:11, I.

### **Argument**

- I. The Family Court did not unreasonably rule that Ms. Summers proposed shared Parenting Plan submitted to the Court was a request for a substantial change.**

The Family Court issued its Final Orders in this matter by a Notice of Decision dated October 31, 2016. Resp. Appx. pg. 3. In the Final Order on Parenting Plans, the Court indicated that the Clerk is to schedule a 1 hour Review Hearing in approximately 6

months to determine whether the Final Parenting Plan should be modified. Resp. Appx. pg. 5. The Review Hearing, that was ordered to occur in approximately six (6) months, never occurred, because Christine was not in compliance with the Court's Order. The Court later scheduled a Review Hearing to occur on February 6, 2018. At this Review Hearing, Christine was looking for the Court to modify the Final Parenting Plan that provided for the primary residence of the minor children to be with Steven and provided for unsupervised parenting time for Christine. Christine was looking to modify the parenting schedule to a shared parenting schedule or 50/50 parenting schedule. This is clearly a substantial modification to the Final Parenting Plan.

The Parenting Plan that was issued in this case was a Final Parenting Plan and not a Temporary Parenting Plan. It should also be noted that the Temporary Parenting Plan, which was issued by the Court by a Notice of Decision dated August 21, 2014, called for supervised parenting time for Christine. In fact, from the issuance of the Temporary Parenting Plan to the issuance of the Order on Christine's Motion for a Review Hearing, Christine either had supervised parenting time or suspended parenting time. When Christine asked the Court to restore shared parenting time, she was asking the Court to do something that never existed.

Christine's Motion for a Review Hearing and request for the Court to modify the Final Parenting Plan did not comply with the requirements of RSA 461-A:11, I. Going from a Parenting Plan that provides for primary residential responsibility to one party to a shared Parenting Plan, is not a minimal change in the allocation of parenting time between the parents. RSA 461-A:11, I(f). If it was not a minor modification, then it was a substantial or major modification.

**II. The Family Court did not abuse its discretionary powers and did not arbitrarily fail to return Ms. Summers to shared parenting of her minor children.**

The Family Court did not abuse its discretionary power and arbitrarily fail to return Ms. Summers to shared parenting of her minor children. First, Ms. Summers never actually had shared parenting of her minor children. Ms. Summers either had supervised parenting time with her minor children or during different phases of this case, her parenting time was suspended.

Secondly, the Court does not have the discretionary power to modify a Parenting Plan from primary residential responsibility to one party, with the other party having supervised parenting time, to a 50/50 or shared Parenting Plan with no supervision. The only mechanism available to modify a Final Parenting Plan is outlined in RSA 461-A:11, I. *In the Matter of Muchmore and Jaycox*, 159 N.H. 470, 474 (2009).

Even if the Court did have discretionary powers to modify a Final Parenting Plan, and the Petitioner asserts that the Court does not have said discretionary powers, this would not obligate the Court to make a major or significant modification to the Parenting Plan as proposed by the Respondent.

In its Final Order on Parenting Plan, the Court ordered in part as follows: “Any change or modification in the Parenting Plan shall be subject to Ms. Summers addressing her alcoholism in a meaningful way which would include at a minimum participation in an Intensive Outpatient Program, her continued sobriety as shown with compliance with Paymer Associates rules and whether a modification is in the best interests of the children.” Resp. Appx. pgs. 4, 5. When the Court issued its Final Order on Parenting Plan, Christine was immediately in non-compliance. Christine had repeatedly tested positive for alcohol

consumption. She was no longer living with her parents in Merrimack and she was not attending any therapy to address her alcohol problem. Tr. pg. 30, ln. 6-25; Tr. pg. 31, ln. 1-4. In fact, Christine has never complied with the Final Order on Parenting Plan.

After the Third Emergency Motion to Suspend Respondent's Parenting Rights was filed by the Petitioner, Christine apparently enrolled in an Intensive Outpatient Program. No records have ever been provided to the Guardian ad Litem or to counsel for Petitioner about this enrollment in the Intensive Outpatient Program. Tr. pg. 30, ln. 9-11. Further, Christine revealed at the Review Hearing that she did not complete the Intensive Outpatient Program because she obtained employment. Tr. pg. 24, ln. 4-12. At the Review Hearing, Christine asserted that she had been compliant in attending counseling sessions with Ms. Gamache and she was asking the Court to lift the Order so that she does not have to attend counseling. Tr. pg. 25, ln. 2-9. Christine did not submit any records to the Family Court from Ms. Gamache at the Review Hearing to support her claim that she had been regularly attending counseling sessions.

The Family Court does have the discretionary authority to schedule a Review Hearing to determine compliance with its Orders. However, the Family Court does not have discretionary authority to schedule a Review Hearing to modify the Final Parenting Plan. In order for a Final Parenting Plan to be modified, a Motion must be filed by one (1) of the parties. The Motion must allege a circumstance that would warrant the modification of the Parenting Plan as outlined in RSA 461-A:11, I. In this case, no such Motion was filed. Further, in this case the Court did modify the Final Parenting Plan by its Order on Review Hearing issued by a Notice of Decision dated April 2, 2018. Resp. Br. pg. 31. In its Order, the Court ordered that Ms. Summers shall have unsupervised parenting time



every other weekend from Friday at 5:00 pm until Sunday at 7:00 pm and every Wednesday from 5:00 pm until Thursday morning at 8:00 am. Removing the supervision of the parenting time is an order that does not impact the allocation of parenting time between the parties. However, adding a weeknight parenting time from Wednesday at 5:00 pm until Thursday morning at 8:00 am is a modification of the Parenting Plan that does impact the allocation of parenting time between the parties. The Court had no statutory authority for making this modification.

**III. The Family Court did not establish a criteria for a Review Hearing to determine if shared parenting was in the best interests of the minor children.**

The Family Court does not have independent authority to establish criteria for a Review Hearing to determine if the parenting schedule should be changed from a Parenting Plan awarding one (1) party primary residential responsibility and the other party supervised parenting time to a shared or 50/50 Parenting Plan. The criteria for determining a Parenting Plan is a statutory criteria established by RSA 461-A:6. In determining parental rights and responsibilities, the Court shall be guided by the best interests of the child and shall consider the factors enumerated in Subparagraphs (a) through (m). The Court made this determination when it issued the Final Parenting Plan. In the Final Order on Parenting Plan, the Court stated in part as follows: “Based upon Ms. Summers’ alcohol addiction and her actions in hiding or minimizing her addiction from the Court, Mr. Summers, her parents and the GAL, and taking into account the testimony of the parties, the testimony and Reports of the Gal and all of the statutory Criteria the Court finds that shared/equal parenting time is not in the children’s best interests.” Going forward, if there is a requested change or modification to the Parenting Plan, the factors outlined in RSA 461-A:11, I must be alleged by the moving party and considered by the Court after a proper

Motion is filed. In this case, no such proper Motion was filed. Further, RSA 461-A:11, I provides the exclusive mechanism for changing or modifying a Parenting Plan. The statute does not grant the Court the discretionary power to schedule a Review Hearing to modify the Final Parenting Plan.

The Court developed a Final Parenting Plan issued by a Notice of Decision dated October 31, 2016. After issuing a Final Parenting Plan, the Court only has the discretion that is outlined in RSA 461-A:11, I when it is deciding whether or not to modify a Final Parenting Plan.

**IV. The Family Court did not unreasonably interfere with Ms. Summers' parental rights when it denied her request for a shared Parenting Plan.**

The Respondent, Ms. Summers, had no right to expect that the Court would grant her a modification of the Parenting Plan as she requested in her Motion and as she requested at the Review Hearing. Being found to be in compliance with prior Orders pertaining to alcohol abuse is not a basis for a modification of a Final Parenting Plan. The Court did note in its Final Order on Parenting Plan that as long as the reports from Paymer Associates continued to show negative results, Ms. Summers should have shared decision-making responsibility. Ms. Summers continues to enjoy shared decision-making responsibility, based upon her compliance with the testing protocols outlined in the Court's Order and based upon the Court's finding that she is not presently abusing alcohol.

Ms. Summers continues to have the right to raise her children under a co-parenting arrangement outlined in the Final Parenting Plan and the Order modifying the Final Parenting Plan. Ms. Summers has now argued that limiting her to any parenting schedule that is less than a shared parenting schedule unreasonably interferes with her parental rights. This is simply not the case. As previously stated, Ms. Summers never had a shared

parenting schedule. All of her previous parenting time was either supervised by her parents or suspended on a temporary basis by the Court.

**V. The Family Court did not abuse its discretion and/or make an error of fact and/or law in characterizing the Parenting Plan as a Final Parenting Plan.**

This is a 2014 divorce case involving a contested Parenting Plan for two (2) young children. The Court issued a Temporary Parenting Plan by a Notice of Decision dated August 21, 2014. Approximately twenty-six (26) months later, the Court issued a Final Parenting Plan by a Notice of Decision dated October 21, 2016. It is not realistic to expect that the Court would leave these parties and their two (2) minor children in limbo indefinitely. The dictates of justice require that a Final Parenting Plan be entered by the Family Court in an expeditious manner and that there be finality in this matter. Although there does not appear to be any case law on point in New Hampshire, other jurisdictions have held that there is a critical need for early and final resolution of the issue of custody of minor children when a marriage ends. “Decisions regarding the custody of children may well be the most difficult that courts are called upon to make. Nonetheless, children must not be left in cruel custodial limbo so damaging to young lives while labored judicial processes grind on.” *Wopata v. Wopata*, 498 N.W.2d. 478, 484 (Minn. App. Ct. 1993).

To argue that the Final Parenting Plan that was clearly marked as a Final Parenting Plan is actually a Temporary Parenting Plan, is a nonsensical argument. At the Review Hearing, Christine did not argue that the Final Parenting Plan was in fact a Temporary Parenting Plan. Christine was clearly looking to modify a Final Parenting Plan. The Final Parenting Plan (Resp. Appx. pg. 6) did not specifically call for a Review Hearing to modify the parenting schedule. The Parenting Plan stated in part in Paragraph B.1, as follows: “Ms. Summers’ parenting time shall be supervised by her parents until this Parenting Plan

is modified by agreement of the parties or an Order from this Court. One of her parents shall be present in the home or with Christine for any parenting time occurring outside the home. Christine shall not consume alcohol and shall continue in the Paymer Associates Program until such time as there is a further Review Hearing.” As previously stated, a Review Hearing for compliance purposes would be within the discretionary authority of the Family Court. However, a Review Hearing for a major modification of the Parenting Plan is not within the discretion of the Family Court. At the Final Hearing for this matter, Christine requested that the Court enter a Final Parenting Plan and not a Temporary Parenting Plan. In fact, Christine was looking for an Order stating that the children shall reside primarily with Christine and that Steven would have certain detailed parenting time. At the Final Hearing for this matter, Christine did not acknowledge that she had any alcohol problem. In fact, right up to the time that the Third Emergency Motion was filed by the Petitioner, Christine had done nothing to address her alcohol problem. Pet. Appx. pg. 53. The Temporary Parenting Plan in this matter required Christine to completely refrain from the use of alcohol. Pet. Appx. pg. 39. Christine clearly, repeatedly violated this Order. The Temporary Order required Christine to attend AA minimum of three (3) times each week. Christine did not attend AA. Christine refused to complete the Court ordered Intensive Outpatient Program, she refused to attend AA and she has yet to address her alcoholism in any meaningful way.

**VI. The trial court made an error of law when it stated in the Final Order on Parenting Plan, which was in addition to the Final Parenting Plan, that the Final Parenting Plan was subject to review in 6 months to determine if the parenting schedule should be modified to again allow shared or equal parenting time.**

By a Notice of Decision dated October 31, 2016 the Court entered a Final Parenting

Plan in this long-standing case. This Final Parenting Plan was entered approximately thirty (30) months after the Court issued a Temporary Parenting Plan that called for supervised parenting time for Christine. The Final Parenting Plan provided that the children shall primarily reside with Steven Summers and then detailed the supervised parenting times for Christine Summers. In the Final Order on Parenting Plan (Resp. Appx. pg. 4), the Court made it clear that the attached Parenting Plan was the Final Parenting Plan. However, the Court went on to say that it is subject to review in six (6) months to determine if the parenting schedule should be modified to again allow shared or equal parenting time. The Court had no statutory authority to enter this Order.

This Court has already ruled on this very subject. This Court has stated as follows: “The plain language of RSA 461-A:11, I, does not support this construction. RSA 461-A:11, II requires the party seeking modification to prove one of the four circumstances listed in RSA 461-A:11, I, exists. RSA 461-A:11, I, allows a trial court to modify an existing Parenting Plan under any of those circumstances. RSA 461-A:11, I, does not grant the court discretion to modify an existing Parenting Plan under any other circumstances.” *In the Matter of Muchmore and Jaycox*, 159 N.H. 470, 474 (2009).

The Respondent is arguing that the Family Court had discretionary authority to schedule a Review Hearing in the future and to modify the Final Parenting Plan. There is no authority for this position found in RSA 461-A:11. If the Legislature had intended the trial court to have discretionary authority to schedule a Review Hearing to modify a Final Parenting Plan, it would have listed it as one of the circumstances detailed in RSA 461-A:11, I.

*Muchmore* was decided by this Court in 2009. Since that time, the Legislature has

in fact amended RSA 461-A:11, I and added additional circumstances in which a Final Parenting Plan can be modified. However, those additional circumstances do not include the discretion to schedule a Review Hearing for a modification of a Final Parenting under a separate criteria adopted by the trial court.

The parties to this matter did not agree upon a Final Parenting Plan. Steven proposed that the Court grant primary residential responsibility to him. On the other hand, Christine proposed that the Court grant primary residential responsibility to her. When the parties cannot agree upon a Parenting Plan, it is up to the Court to enter a Final Parenting Plan. In formulating a Final Parenting Plan, the Court must consider the best interests of the minor children, under the circumstances presented to the Court, at that time. The Court considered the criteria outlined in RSA 461-A:11 and determined that the best interests of the children did not allow for a shared Parenting Plan. The Court ordered supervised parenting time for Christine. It is clear that Christine had a severe alcohol problem and this was present when the parties went to the Final Hearing in 2015 and it continued to exist when the Court issued its Final Decree on October 31, 2016. The severe alcohol problem continued to exist even after the Court issued its Final Decree. As a result of Christine's alcohol problem, she was not able to meet the needs of the minor children as detailed in RSA 461-A:6. Christine would ask the Court to delay its best interests finding to some date in the future when she might be able to get her alcohol problem under control. However, it is clearly not in the best interests of the parties' minor children to delay the implementation and formulation of a Final Parenting Plan. The Court must make this determination based upon the best interests of the children at the time the parties are before the Court, and not at some future, uncertain date.

The Respondent relies upon the case of *In the Matter of Kurowski and Kurowski*, 161 N.H. 578 (2011) to support her position that the Parenting Plan was a Final Parenting Plan, but not a permanent Plan. The Respondent's reliance upon *Kurowski* is misplaced. *Kurowski* involved an agreement between the parties to reserve the disputed issue of their daughter's school placement for resolution at a later date. *Id.* at 587. *Kurowski* did not involve an agreement to leave open any portion of the routine, parenting plan schedule. *Id.* In the case before this Court, the parties did not agree to leave any portion of the parenting schedule open for future determination. The Parenting Plan issued by the trial court was a Final and Permanent Parenting Plan.

**VII. The trial court made an error of law when it entered a Final Parenting Plan but also ordered a separate Order that a Review Hearing would be scheduled in 6 months for a potential major modification of the Parenting Plan.**

Once a Final Parenting Plan has been entered, the Court has no independent authority to modify the Final Parenting Plan. The only authority that the Court has to modify a Final Parenting Plan is outlined in RSA 461-A:11, I. The Final Parenting Plan ordered that primary residential responsibility would be with Steven and that Christine would have certain supervised parenting time. Christine was looking for the Court to schedule a Review Hearing and to modify her parenting time from supervised parenting to an unsupervised, shared parenting schedule. There is no authority in the law for such a modification.

As previously noted, although Christine claims that she wanted the Court to allow her to resume a shared parenting schedule with the minor children, she never in fact had a shared parenting schedule with the minor children. The Temporary Parenting Plan provided Christine with supervised parenting time. There were certain occasions during

the course of this case in which Christine's parenting time was suspended. A supervised parenting schedule is certainly not a shared parenting schedule.

"RSA 461-A:11, I, simply does not allow a party to seek modification of an existing Parenting Plan when ... none of the circumstances listed therein exists." *In the Matter of Muchmore and Jaycox*, 159 N.H. 470, 474 (2009).

**VIII. The trial court made an error of law when it provided for a Review Hearing of the Final Parenting Plan and it did not provide that the Respondent would need to satisfy the predicate circumstances for modification as required by RSA 461-A:11, I.**

After entering a Final Parenting Plan, the Court does not have the authority to order that a Review Hearing will be scheduled in the future to possibly institute a significant change or modification to the Parenting Plan. RSA 461-A:11, I, does not provide for a Review Hearing after a Final Parenting Plan has been entered. It should be noted that Christine never appealed the Final Parenting Plan. The appeal that Christine has filed is the Order that came from the Review Hearing that was scheduled after Christine filed a Motion for the Review Hearing.

In addition to *Muchmore*, the Court ruled on this very issue in the case of *In re Nicholas Kelly and Astrid Fernandes-Prabhu*, 170 N.H. 42 (2017). In *Kelly*, the trial court issued a Final Parenting Plan that awarded the Respondent sole decision-making responsibility and primary residential responsibility for the parties' minor child. *Id.* at 44. The Petitioner received parenting time each weekend from Saturday at 10:00 am to Sunday at 6:00 pm and one evening parenting time every week from 4:00 pm to 7:00 pm. *Id.* The Petitioner moved for a modification of the Final Parenting Plan and he was seeking at least 50% parenting time and at least joint decision-making responsibility. *Id.* at 45. After a further hearing on this matter, the Court issued an Order modifying the Parenting Plan by



awarding the Petitioner joint decision-making responsibility and expanding his routine parenting time to a nearly equal schedule of parenting time. *Id.* On appeal, the Respondent argued that the trial court had no authority to modify the Parenting Plan because the Petitioner did not satisfy a predicate circumstance for modification, as required by RSA 461-A:11, I. *Id.* The Supreme Court ruled as follows: “Accordingly, because RSA 461–A:11, I(a) did not empower the trial court to modify the parenting plan, and because the record contains insufficient findings to permit us to determine whether the trial court properly modified the plan pursuant to RSA 461–A:11, I(c), we reverse the trial court’s order to the extent that modification of the parenting schedule was ordered...” *Id.* at 50.

In the case that is presently before the Supreme Court, the Respondent moved for a Review Hearing and relied upon the language in the Final Order on Parenting Plan issued by a Notice of Decision dated October 31, 2016. No independent Motion for Modification was filed by the Respondent citing the statutory circumstances for a modification found in RSA 461-A:11, I. Therefore, the Family Court had no authority to modify the Final Parenting Plan.

### **Conclusion**

The Court entered a Final Parenting Plan in this case by a Notice of Decision dated October 31, 2016. The Final Parenting Plan granted primary residential responsibility to Steven and awarded Christine supervised parenting time. Absent a Motion filed by a party alleging the statutory criteria for a modification of the Final Parenting Plan, the Court does not have the discretionary authority to schedule a Review Hearing and modify the Final Parenting Plan. A Final Parenting Plan can only be modified if a proper Motion is filed by a party and after a hearing, the Court finds that the

moving party has proven that a modification is warranted pursuant to the circumstances enumerated in RSA 461-A:11, I. No such Motion was ever filed in this case. Christine never appealed the Final Parenting Plan.

The Court made an error of law when it entered its Order by a Notice of Decision dated April 2, 2018 and expanded Christine's parenting time to include overnight parenting time on one (1) weeknight per week.

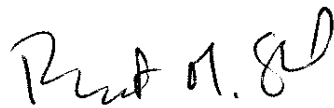
The appeal filed by Christine in this matter should be denied. The cross-appeal filed by Steven in this matter should be granted.

**Oral Argument**

The Petitioner/Appellee respectfully request oral argument of not more than 15 minutes.

**Certificate of Service**

I hereby certify that two (2) copies of the within Appellee Brief and Appendix has been mailed this 27<sup>th</sup> day of March, 2019 to Elaine M. Kennedy, Esquire, opposing counsel.



\_\_\_\_\_  
Robert M. Shepard – NH Bar #2326

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

Case No. 2018-0264

In the Matter of Steven Summers and Christine Summers

Rule 7 Discretionary Appeal  
From Decision Of The 9<sup>th</sup> Circuit – Family Division – Merrimack

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**APPENDIX OF APPELLEE, STEVEN M. SUMMERS**

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**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT**

P.27

9th Circuit - Family Division - Merrimack  
4 Baboosic Lake Road  
Merrimack NH 03054-3605

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

**NOTICE OF DECISION**

**ROBERT M. SHEPARD, ESQ  
SMITH-WEISS SHEPARD PC  
PO BOX 388  
NASHUA NH 03061-0388**

AUG 25 2014

Case Name: **In the Matter of Steven Summers and Christine Summers**  
Case Number: **657-2014-DM-00012**

Enclosed please find a copy of the Court's Order dated August 08, 2014 relative to:

**Scheduling Conference Order  
Order on Appointment of GAL  
Temporary Decree on Petition for Divorce  
Temporary Parenting Plan  
Temporary Uniform Support Order**

August 21, 2014

Lynn R. KillKelley  
Clerk of Court

(102)

C: John F. Durkin, Jr., ESQ; Kysa M. Crusco

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS

JULY 2014

9<sup>TH</sup> CIRCUIT-FAMILY DIVISION-MERRIMACK

No. 657-2014-DM-00012

In the Matter of Steven M. Summers and Christine L. Summers

TEMPORARY DECREE ON PETITION FOR DIVORCE

NOW COMES the Petitioner, Steven M. Summers, by and through his attorneys, Smith-Weiss Shepard, P.C., and proposes that the Court adopt the following as its Temporary Decree:

1. Type of Case:

Divorce.

2. PARENTING PLAN AND UNIFORM SUPPORT ORDER:

See attached Parenting Plan and Uniform Support Order.

3. TAX EXEMPTIONS FOR CHILDREN:

Steven shall be entitled to claim the minor children as dependents *one*

A parent may only claim a child as a dependent if that

parent is current on his/her child support for the applicable tax year. *The parties may agree to file a joint tax return. If so, the refund shall be held in escrow*

4. GUARDIAN AD LITEM FEES:

*pending further order or agreement of the parties.*

The Court shall appoint a Guardian ad Litem to represent the interests of the parties' minor children. Steven shall be responsible for the payment of 75% of the Guardian ad Litem's fee and Christine shall be responsible for the payment of 25% of the Guardian ad Litem's fee. *See attached GAL Order.*

The Guardian ad Litem shall investigate the following issues and make recommendations to the Court thereon:

- A. Decision-making responsibilities;
- B. Residential responsibilities;
- C. Parenting time;
- D. Counseling for Respondent;
- E. Psychological evaluation of the Respondent;
- F. Parenting skills of both parties;
- G. Substance abuse / alcohol for the Respondent;
- H. Violence, physical abuse, emotional abuse;
- I. Supervision of parenting time;
- J. Place and manner of exchange for parenting time; and
- K. Other issues which the GAL deems relevant based upon the investigation.

- 5. **ALIMONY:** *No alimony is ordered at this time as Petitioner is obligated to pay the loan on Respondent's vehicle and keep it insured.*
- 6. **HEALTH INSURANCE FOR SPOUSE:**

Steven shall maintain health insurance for the benefit of Christine on a temporary basis. Steven shall be responsible for the payment of the premiums.

Each party shall be responsible for his/her own unreimbursed medical, dental, optical, and other expenses not otherwise covered by insurance.

7. **LIFE INSURANCE:**

Each party shall maintain their existing life insurance policies. No change in beneficiaries or the amount of coverage shall be made and no encumbrances shall be placed on the policies.

8. **MOTOR VEHICLES:**

Steven is awarded <sup>use of</sup> his 2013 Ford F-150 Pick-Up Truck, free and clear of any interest of Christine. Steven shall be solely responsible for the payment of all expenses associated with this Pick-Up Truck, including the monthly payment, maintenance, insurance and other such costs. Christine shall be awarded <sup>use of</sup> the Audi automobile, free and clear of any interest of Steven. *Steven* shall be solely responsible for the payment of: *the monthly payment and insurance.*

9. **FURNITURE AND OTHER PERSONAL PROPERTY:**

Each party is awarded the temporary use of the furniture, furnishings, and other personal property currently in his or her possession.

The Respondent, with the mutual agreement of the Petitioner, will be allowed to remove a certain amount of personal property from the marital home for her use during the temporary phase of this case.

10. **RETIREMENT PLANS AND OTHER TAX DEFERRED ASSETS:**

Each party shall temporarily maintain any pension, retirement, 401(k), IRA or other retirement account in his or her name, and no reduction in, or encumbrance therein, shall be made.

11. OTHER FINANCIAL ASSETS:

Each party is temporarily awarded the use of any bank accounts and pensions currently in his or her name.

Each party is temporarily awarded the use of any stocks, bonds, or other investments currently in his/her name. Neither party shall liquidate, cash in or encumber their stocks, bonds or other investments, without the prior written consent of the other party.

12. BUSINESS INTERESTS OF THE PARTIES: - NA

13. DIVISION OF DEBT:

The parties shall each be responsible for any debt that they have incurred after the date of separation.

14. MARITAL HOME/CIVL UNION HOME:

Steven is awarded the temporary and exclusive occupancy of the marital home located at 40 Wellesley Drive, Bedford, New Hampshire, v

Christine shall only enter the marital home with the prior, express permission of Steven. Steven shall be responsible for the payment of the mortgage, insurance, real estate taxes and other usual and customary expenses associated with the marital home.

*The parties are authorized to place the "home" on the market for sale, should they agree to do so. They shall cooperate if the property is so listed. If sold, the net*



proceeds shall be held in escrow pending further written Agreement of the parties or Order of this Court.

15. OTHER REAL PROPERTY:

Steven owns a two (2) family home located at 6 Gordon Street, Hudson, New Hampshire.

Steven *is* awarded *use of* in the two (2) family home at 6 Gordon Street, Hudson, New Hampshire. Steven shall be solely responsible for the payment of all expenses associated with this two (2) family home and he shall be entitled to collect all rent generated by this property.

Steven owns a four (4) family rental located at 38 Hancock Street, Manchester, New Hampshire. §

Steven *is* awarded *use of* the four (4) family rental unit. Steven shall be solely responsible for the payment of all expenses associated with this four (4) family rental property and he shall be entitled to collect all rent generated by this property. *He shall provide income and expense statement to Christine monthly, commencing August 31, 2014.*

16. RESTRAINTS AGAINST THE PROPERTY:

The parties are enjoined and restrained from selling, transferring, encumbering, hypothecating, concealing or in any other manner whatsoever disposing of any property, real or personal, belonging to either or both of them except by written agreement of the parties, for reasonable and necessary expenses of living or in the ordinary course of investing, or by further Order of the Court.

17. **RESTRAINING ORDERS:**

Each party is restrained and enjoined from entering the home or the place of employment of the other party, and from harassing, intimidating or threatening the other party or his/her relatives or other household members.

18. **OTHER REQUESTS:**

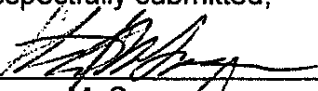
A. **Attorneys' Fees.** Any party that unreasonably fails to comply with this Decree or other Court Orders (including "Uniform Support Order), may be responsible to reimburse the other party for whatever costs, including reasonable attorneys fees, that may be incurred in order to enforce compliance.

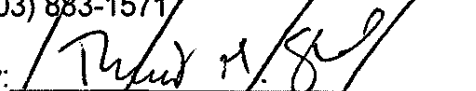
B. **Change in Address or Employment.** Each party shall promptly notify the Court and the other party of any change in his or her address or telephone number, and notify the other party of any material change in employment as long as there are any continuing obligations under this decree. "Material change" will include availability of medical, dental, or life insurance and any substantial increase or decrease in earnings or other income.

19. **MISCELLANEOUS:**

Not applicable.

Respectfully submitted,

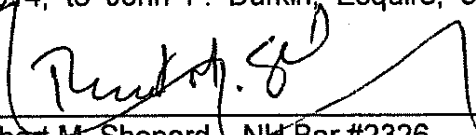
  
\_\_\_\_\_  
Steven M. Summers  
By His Attorneys  
**SMITH-WEISS SHEPARD, P.C.**  
47 Factory Street, P.O. Box 388  
Nashua, New Hampshire 03061  
(603) 883-1571

By:   
\_\_\_\_\_  
Robert M. Shepard – NH Bar #2326

July 30, 2014

**CERTIFICATE OF COMPLIANCE**

I hereby certify that a copy of the foregoing Temporary Decree on Petition for Divorce was given this 30<sup>th</sup> day of July, 2014, to John F. Durkin, Esquire, opposing counsel.

  
\_\_\_\_\_  
Robert M. Shepard NH Bar #2326

**Recommended by:**

  
\_\_\_\_\_  
Signature of Marital Master

8/14/14  
\_\_\_\_\_  
Date

**BRUCE F. DALPRA**  
**MARITAL MASTER**  
\_\_\_\_\_  
Name of Marital Master

**So Ordered:**

I hereby certify that I have read the recommendation(s) and agree that, to the extent the master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

  
\_\_\_\_\_  
Signature of Judge

8-14  
\_\_\_\_\_  
Date

**PAUL S. MOORE**  
\_\_\_\_\_  
Name of Judge

**THE STATE OF NEW HAMPSHIRE**

Ninth Circuit-Family Division-Merrimack

No. 657-2014-DM-00012

In the Matter of: Steven M. Summers and Christine L. Summers

**PARENTING PLAN**

**RECOMMENDED:**

This Parenting Plan is ordered by the court. This Plan is: **TEMPORARY.**

Because the children do best when both parents have a stable and meaningful involvement in their lives, it is the policy of this State, unless it is clearly shown that in a particular case it is detrimental to a child, to:

- a. Support frequent and continuing contact between each child and both parents;
- b. Encourage parents to share in the rights and responsibilities of raising their children after parents have separated or divorced;
- c. Encourage parents to develop their own parenting plan with the assistance of legal and mediation professionals, unless there is evidence of domestic violence or child abuse or neglect;
- d. Grant parents and courts the widest discretion in developing a plan;
- e. Consider the best interests of the child in light of the factors described in RSA 461-A: 6 and the safety of the parties in developing a parenting plan.

Children:

- |                     |                 |
|---------------------|-----------------|
| 1. Abrielle Summers | DOB: 10/14/2009 |
| 2. Tobias Summers   | DOB: 10/14/2009 |

**A. Decision-making Responsibility:**

Major Decisions: These include, but not limited to, decisions regarding the children's non-emergency health and dental care, religious training and education issues.

1. The parties are awarded joint decision-making responsibility.

Petitioner's residence: 40 Wellesley Drive, Bedford, NH

Respondent's residence: 40 Wellesley Drive, Bedford, NH

2. Day-to-day decisions: each parent shall make such decisions during the time he/she is caring for the children.

**B. Residential Responsibility:** The parties shall share residential responsibility as follows:

1. Routine Schedule:

Petitioner shall have parenting time each Monday through Wednesday morning and alternate weekends from Friday after school (4:00 pm if no school) to Monday at which time he shall bring the children to school/day care as the case may be.

Respondent shall have parenting time each Wednesday through Friday and alternate weekends from Friday through Monday morning. Her parenting time overnight shall occur at her parents' home. If she has her own residence, said overnight parenting time shall be supervised by one of her parents.

2. Holiday and Birthday Schedule:

**Thanksgiving 2014:** routine schedule.

**Christmas Eve/Day 2014:** Petitioner shall have parenting time on 12/24 from 9:00 am to 9:00 pm. Respondent shall have parenting time from 12/24 at 9:00 pm to 12/26 at 12:00 pm. Thereafter, the routine schedule shall govern.

3. Three-Day Weekends:

NA

4. Vacation Schedule:

NA

5. Supervised Parenting Time:

See B 1.

**6. Other Parental Responsibilities:**

Each parent shall promote a healthy and beneficial relationship between the children and the other parent. Neither parent shall demean or speak negatively in any manner that would damage the relationship between the other parent and children.

Neither parent shall permit the children to be subjected to persons abusing alcohol or using illegal drugs. This provision includes the parents.

- a. A parent requesting a temporary change in the parenting schedule shall act in good faith and request from the other parent the change as soon as possible. The parents are expected to fairly adjust parenting schedules when family circumstances, illness or other commitments make modification reasonable;
- b. If a parent requires child care by some other person who does not reside in the residence for a period exceeding 12 hours, the other parent shall be offered the opportunity to have parenting time. This provision does not apply to regularly scheduled day care.
- c. Each parent shall supply appropriate clothing for the children during their scheduled parenting time. The clothing is to be considered the property of the children and shall be returned with the children;
- d. Each parent shall ensure that the children attend regularly scheduled extra-curricular activities, including (but not limited to) athletics and extra-curricular activities while the children are with that parent.

**C. Legal Residence for School Attendance:**

Petitioner's' residence shall be designated as the children's residence for school attendance provided he continues to reside in the family home.

**D. Transportation and Exchange of Children:**

The parent whose parenting time is to commence shall be responsible for transportation.

**E. Information Sharing and Access, Including Telephone and Electronic Access:**

**Unless there is an outstanding court order to the contrary:**

Each parent shall have the right to inspect and receive the children's school records and are authorized to consult with school staff concerning the children's

welfare and academic progress. Each parent shall be entitled to participate in school events.

Each parent shall have the right to inspect and receive government and law enforcement agencies' records concerning the children;

Each parent shall have the right to inspect and receive medical, counseling, psychological, dental and other health care providers' records concerning the children. Each parent has the right to consult with any such person regarding the children's health and welfare.

Each parent has the continuing responsibility to provide a residential, mailing or other contact address and telephone number to the other parent.

Each party has a continuing responsibility to notify the other parent of any emergency circumstances, substantial changes or decisions affecting the children as close in time as the occurrence of the emergency.

1. Telephone Contact:

While the children are with one parent, the other shall be permitted to telephone the children at reasonable times. The children shall be given privacy during the conversation, unless there is a court order to the contrary.

2. Written/Electronic Communication:

Each parent shall have the right to communicate with the children in writing; or by email or text during reasonable hours without interference of monitoring by the other parent, unless there is a court order to the contrary.

**F. Relocation of Children:**

1. The relocation of a child's residence in which he/she lives at least 150 days per year is governed by RSA 461-A: 12. Either parent may relocate the child's residence if it results in the parents living closer to one another and does not affect the child's school enrollment. Prior to relocating the child's residence farther from the other parent or in such a way that school enrollment will be impacted, the parent shall provide reasonable notice to the other parent. For purposes of this provision, 60 days' notice is presumed to be reasonable unless other factors are found to be present. At the request of either parent, the court shall conduct a hearing on the issue of relocation.

**G. Review and adjustment of the Parenting Plan:**

NA. This is a temporary Plan.

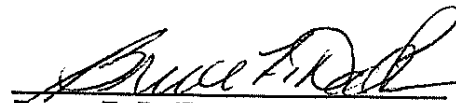
**H. Method for Resolving Disputes:**

NA. This is a temporary Plan.

**I. Other Parenting Orders:**


Respondent shall completely refrain from the use of alcohol. She shall begin counseling with a therapist proficient in Cognitive Behavioral Therapy and attend AA a minimum of three times each week. The GAL shall have full and free access to speak with any therapist and the LADAC. Respondent shall execute any authorizations required.

8/4/14  
Date

  
Bruce F. DalPra, Master

I hereby certify that I have read the recommendation and agree that, to the extent the marital master has made factual findings, he has applied the correct legal standard to the facts determined by the marital master. So ordered.

8-8-14  
Date

  
PAUL S. MOORE  
Presiding Justice



THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

Court Name: 9th Circuit - Family Division - Merrimack
Case Name: In the matter of Steven Summers and Christine Summers
Case Number: 657-2014-DM-00012

PARENTING PLAN

This parenting plan is: (Choose one)

- Agreed upon
Proposed by Christine Summers (parent's name)
Developed by Court

This parenting plan is: (Choose one)

- Temporary. The completed paragraphs apply until the case is concluded.
Final. All completed paragraphs shall be incorporated in the Court's final order.
Changing a prior final parenting plan or a prior final custody/visitation order.

The parental rights and responsibilities statute, RSA 461-A, requires any party in a divorce, legal separation, or parenting (formerly known as "custody") case to file a parenting plan, whether s/he is seeking an order establishing parental rights and responsibilities or an order modifying such rights and responsibilities. As you complete the Parenting Plan, please bear in mind this state's policy (below) as set forth in RSA 461-A:2. This policy will guide the court in making decisions affecting your parental rights and responsibilities.

Because children do best when both parents have a stable and meaningful involvement in their lives, it is the policy of this state, unless it is clearly shown that in a particular case it is detrimental to a child, to:

- (a) Support frequent and continuing contact between each child and both parents.
(b) Encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or divorced.
(c) Encourage parents to develop their own parenting plan with the assistance of legal and mediation professionals, unless there is evidence of domestic violence, or child abuse/neglect.
(d) Grant parents and courts the widest discretion in developing a parenting plan.
(e) Consider both the best interests of the child in light of the factors listed in RSA 461-A:6 and the safety of the parties in developing a parenting plan.

This parenting plan is for the following child(ren) born to, or adopted by, the parties:

Table with 4 columns: Full Name, Date of Birth, Full Name, Date of Birth. Row 1: Abrielle Summers, 10/14/2009, Tobias J. Summers, 10/14/2009. Rows 2-5 are blank.

**PARENTING PLAN**

**A. Decision-Making Responsibility:**

1. **Major Decisions:** These include, but are not limited to, decisions about the child(ren)'s education, non-emergency health and dental care, and religious training: **(Choose one)**

(a) **Joint Decision-Making:** Both parents shall share in the responsibility for making major decisions about the child(ren).

Note: If parents have joint decision-making responsibility, RSA 461-A:4 requires parenting plans to include the legal residence of each parent unless the court finds that there is a history of domestic abuse or stalking or that including such information would not be in the best interest of the child(ren). If the parenting plan includes a parent's residence, the parent shall be responsible for promptly notifying the court and the other parent of any change in residence. The failure to provide such information may result in a finding of contempt of court.

Legal Residence of Christine Summers (parent's name)

99 Wire Road, Merrimack, NH 03054

Legal Residence of Steven Summers (parent's name)

40 Wellesley Drive, Bedford, NH 03110

The court finds that there is a history of domestic abuse or stalking or that including such information would not be in the best interest of the child(ren).

(b) **Sole Decision-Making:** \_\_\_\_\_ (parent's name) shall have sole decision-making authority on major decisions about the child(ren).

2. **Day-To-Day Decisions:** Each parent shall make day-to-day decisions for the child(ren) during the time he/she is caring for the child(ren). This includes any emergency decisions affecting the health or safety of the child(ren). A parent who makes an emergency decision shall share the decision with the other parent as soon as reasonably possible.

3. **Other Provisions:** \_\_\_\_\_

**B. Residential Responsibility & Parenting Schedule:**

1. **Routine schedule:** **(Choose one)**

(a) The child(ren) shall reside solely with \_\_\_\_\_ (parent's name).

(b) The child(ren) shall reside primarily with Christine (parent's name), except for the following days and times when the other parent shall have parenting time with the child(ren):

**Steven shall have the children every other weekend from Friday after school until Monday morning, at which time he shall drop them off at school. He shall also have the children every other Thursday overnight on alternate weeks.**

(c) The above choices do not fit this parenting situation. Instead, the parents shall have equal or approximately equal residential responsibility for the minor child(ren) as follows:

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

**PARENTING PLAN**

2. **Holiday and Birthday Planning: (Choose (a), (b), or (c))**

(a) No holiday and birthday schedule shall apply. The routine schedule set forth above shall apply.

(b) Holiday and birthday parenting time shall be as the parties agree.

(c) The holidays and birthday(s) listed below should be shared as described. Specify start and end times and days/dates as necessary. (For example, Thanksgiving: One parent—even years, other parent—odd years, starting on the Wednesday prior to Thanksgiving at 6pm, ending the Friday after Thanksgiving at 6pm). Parenting time on holidays and birthdays which are not checked and described shall be according to the routine schedule set forth above.

Mother's Day Christine 9:00 a.m. to 6:00 p.m. if it is not her weekend

Father's Day Steven 9:00 a.m. to 6:00 p.m. if it is not his weekend

July 4<sup>th</sup> Starting 2016 even years Christine 9:00 am to 10:00 am, July 5. Odd years Steven

Thanksgiving  
Starting 2015 Steven odd years from Wednesday after school until Friday at 6:00 pm.  
Starting 2016 Christine even years from Wednesday after school until Friday at 6:00 pm.

Christmas Eve See attached

Christmas Day See attached

Child(ren)'s Birthday(s) As parties agree

One Parent's Birthday As parties agree

Other Parent's Birthday As parties agree

Other religious, civil and family celebrated special occasions:  
\_\_\_\_\_  
\_\_\_\_\_

3. **Three-day weekends: (Choose (a), (b), or (c))**

(a) No three-day weekend schedule shall apply. The routine schedule set forth above shall apply.

(b) The parent exercising parenting time on the weekend before a Monday holiday shall have parenting time on that Monday holiday.

(c) The three-day weekends listed below should be shared as listed and described. Parenting time on three-day weekends which are not checked and described shall be according to the routine schedule set forth above.

M. L. King Jr. Civil Rights Day \_\_\_\_\_

Presidents' Day \_\_\_\_\_

Memorial Day \_\_\_\_\_

Labor Day \_\_\_\_\_

Columbus Day \_\_\_\_\_

Other \_\_\_\_\_

**PARENTING PLAN**

**4. Vacation Schedule:**

**(a) December Vacation: (Choose one)**

(1) No December vacation schedule shall apply. The routine schedule set forth above shall apply.

(2) The parent exercising parenting time with the child(ren) on Christmas Eve (as outlined above) shall have the following additional parenting time with the child(ren) over the December vacation:

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

The parent exercising parenting time with the child(ren) on Christmas Day (as outlined above) shall have the following additional parenting time with the child(ren) over December vacation:

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

(3) The above choices do not fit this parenting situation. Instead, the residential schedule for the child(ren)'s December vacation shall be as follows:

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

**(b) February, April, and Summer Vacations. Specify the day of the week vacation starts and ends, if necessary. (Choose one)**

(1) No February, April, or summer vacation schedule shall apply. The routine schedule set forth above shall apply.

(2) The child(ren) shall reside with \_\_\_\_\_ (parent's name) during February vacation, except for the following days and times when the child(ren) shall be with the other parent:

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

The child(ren) shall reside with \_\_\_\_\_ (parent's name) during April vacation, except for the following days and times when the child(ren) shall be with the other parent:

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

The child(ren)'s summer residential schedule shall be as follows:

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

(3) The above choices do not fit this parenting situation. Instead, the residential schedule for the child(ren)'s February, April, and summer vacations shall be as follows:

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

**(c) Other Vacations - describe the schedules for any other vacations:**

\_\_\_\_\_

**PARENTING PLAN**

5. **Supervised Parenting Time: (Choose one)**

- (a) Not applicable.
- (b) The residential schedule is subject to the restrictions or limitations set out as follows:
  - (i.) All parenting time of \_\_\_\_\_ (parent's name(s)) shall be at a supervised visitation center that uses a metal detection device and has trained security personnel onsite.
  - (ii.) Other: \_\_\_\_\_

6. **Other Parental Responsibilities:**

Each parent shall promote a healthy, beneficial relationship between the child(ren) and the other parent and shall not demean or speak out negatively in any manner that would damage the relationship between either parent and the child(ren).

Neither parent shall permit the child(ren) to be subjected to persons abusing alcohol or using illegal drugs. This includes the abuse of alcohol or the use of illegal drugs by the parent.

The parties agree to, or the court establishes, the following additional expectations:

**(Choose all that apply)**

- (a) A parent requesting a temporary change to the parenting schedule shall act in good faith and ask the other parent about such change as soon as possible. The parents are expected to fairly adjust parenting schedules when family situations, illnesses, or other commitments make modification reasonable.
- (b) If a parent requires child care by some person who does not reside in his or her residence, for a period reasonably expected to last longer than 4 hours, then the other parent shall be offered the opportunity to parent the child. This section does not apply to regularly scheduled day care.
- (c) Each parent shall supply the appropriate child(ren)'s clothing for them for their scheduled time with the other parent. These clothes are to be considered the child(ren)'s clothes and shall be returned with the child(ren).
- (d) Each parent shall be responsible for ensuring that the child(ren) attend regularly scheduled activities, including but not limited to sports and extra-curricular activities, while the child(ren) are with that parent.
- (e) As the child(ren) get older, their individual interests may impact the parenting schedule set forth in this parenting plan. Each parent shall be flexible in making reasonable adjustments to the parenting schedule as the needs and interests of their maturing children require.
- (f) Other Parenting Responsibilities: \_\_\_\_\_

C. **Legal Residence of a Child for School Attendance: (Choose one)**

- 1. The children shall attend school in the school district where the parent with sole or primary residential responsibility resides. Under this plan, that parent is Steven - subject to amendment
- 2. This parenting plan is for equal or approximately equal periods of residential responsibility, and so the child(ren)'s legal residence for school purposes shall be with \_\_\_\_\_ (parent's name).
- 3. Pursuant to RSA 193:12, II(a)(2) the parents agree that their child's legal residence for school attendance purposes shall be \_\_\_\_\_ (parent's name) residence. See the attached [Agreement/Order]. Each parent shall furnish a copy of the agreement to the school district in which the parent resides.

**PARENTING PLAN**

**D. Transportation and Exchange of the Child(ren): (Choose all that apply)**

1. Transportation arrangements for the child(ren) between parents shall be as follows:

The parent whose parenting time is to commence shall be responsible for transportation.

2. Unless both parents agree upon a different meeting place, the exchange of the child(ren) shall be at:

\_\_\_\_\_

3. Transportation costs shall be shared as follows:

\_\_\_\_\_

4. Other \_\_\_\_\_

**E. Information Sharing and Access, Including Telephone and Electronic Access:**

Unless there is a court order stating otherwise:

Both parents have equal rights to inspect and receive the child(ren)'s school records, and both parents are encouraged to consult with school staff concerning the child(ren)'s welfare and education. Both parents are encouraged to participate in and attend the child(ren)'s school events.

Both parents have equal rights to inspect and receive governmental agency and law enforcement records concerning the child(ren).

Both parents have equal rights to consult with any person who may provide care or treatment for the child(ren) and to inspect and receive the child(ren)'s medical, dental or psychological records, subject to other statutory restrictions.

Each parent has a continuing responsibility to provide a residential, mailing, or contact address and contact telephone number to the other parent.

Each parent has a continuing responsibility to notify the other parent of any emergency circumstances or substantial changes or decisions affecting the child(ren), including the child(ren)'s medical needs, as close in time to the emergency circumstance as possible.

**1. Parent-Child Telephone Contact: (Choose one)**

The children shall be given privacy during their conversations with either parent. While the child(ren) reside with one parent, the other parent shall be permitted to speak by telephone with the child(ren):

(a) At reasonable times.

(b) At the following times only: \_\_\_\_\_

(c) Other: \_\_\_\_\_

**2. Parent-Child Written Communication: (Choose one)**

(a) Both parents and child(ren) shall have the right to communicate in writing or by e-mailing during reasonable hours without interference or monitoring by the other parent.

(b) Specific agreements/orders regarding written or e-mail access between child(ren) and parent(s):

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

**PARENTING PLAN**

**F. Relocation of a Residence of a Child: (Choose one)**

1. The relocation of a child's residence in which s/he lives at least 150 days per year is governed by RSA 461-A:12. In general, either parent may move the child's residence if it results in the parents living closer and if it will not affect the child's school enrollment. Prior to relocating the child's residence farther from the other parent or in such a way that school enrollment will be impacted, the parent shall provide reasonable notice to the other parent. For purposes of this section, 60 days notice shall be presumed to be reasonable unless other factors are found to be present. At the request of either parent, the court shall hold a hearing on the relocation issue.

2. This parenting plan shall expressly govern the relocation issue as follows: (Choose one)

(a) In addition to the provisions of RSA 461-A:12, this plan shall include the following relocation details:

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

(b) Instead of RSA 461-A:12, this plan shall include the following relocation details:

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

**G. Procedure for Review and Adjustment of Parenting Plan: (Choose one)**

1. The parents shall meet as set out below to review this parenting plan and the well-being of the child(ren). Any agreed-on changes shall be written down, signed by both and filed with the court. (Each should keep a copy.) Choose (a), (b), (c), or (d).

(a) Meetings shall be in \_\_\_\_\_ (month).

(b) Meetings shall be yearly.

(c) Meetings shall be every 2 years.

(d) Meetings shall not be on a set schedule but shall be as often as necessary for the benefit of the child(ren).

2. Other: \_\_\_\_\_

**H. Method(s) for Resolving Disputes: (Choose one)**

1. In the future, if the parents have a disagreement about parenting issues, the parents shall try to work it out in the best interest of the child(ren). If the parents are unable to work out the disagreement, they shall seek the help of a neutral third party to assist them. Only if the parents are unable to work out the disagreement after seeking third party assistance will they ask the court to decide the issue.

2. Other: \_\_\_\_\_

**I. Other parenting agreements important to the parents or child(ren) are listed below or are set forth in the \_\_\_\_\_ number of attached pages.**

**The children shall be enrolled with the town of Bedford School System for kindergarten**

Case Name: In the matter of Steven Summers and Christine Summers

P.47

Case Number: 657-2014-DM-00012

**PARENTING PLAN**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Attorney/Witness for Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Attorney/Witness for Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Guardian *ad Litem*

**Recommended:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Marital Master

\_\_\_\_\_  
Printed Name of Marital Master

**So Ordered:**

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Judge

\_\_\_\_\_  
Printed Name of Judge



THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: 9th Circuit-Family Division-Merrimack

Case Name: In the Matter of Steven Summers and Christine Summers

Case Number: 657-2014-DM-00012

ORDER ON *EX PARTE* (EMERGENCY) MOTION

A motion for *ex parte* or emergency orders has been submitted. The Court has reviewed the motion.

- 1. The Court issues the following orders, which will remain in effect until further hearing:
  - A. The  Petitioner  Respondent (check one) shall have temporary sole decision-making and residential responsibility for the minor child(ren).
  - B. The  Petitioner  Respondent (check one) shall have temporary sole residential responsibility for the minor child(ren).
  - C. The  Petitioner  Respondent (check one) shall not interfere in any way with the personal liberty or property of the other nor the household property used in the care of the minor child(ren), nor do any act to interfere with the other parent's decision-making and residential responsibilities for the minor child(ren).
  - D. The  Petitioner  Respondent (check one) is awarded temporary exclusive use of the parties' residence at \_\_\_\_\_ (residence address) and household furniture and furnishings therein.
  - E. The  Petitioner  Respondent (check one) shall not enter the residence or property of the other.
  - F. Each party is restrained and enjoined from transferring, encumbering, hypothecating, concealing or otherwise disposing of any property except in the ordinary course of business or for the necessities of life.
  - G. Other: \_\_\_\_\_

- 2. No *ex parte* or emergency orders are issued - no showing of imminent danger of irreparable harm.
  - The case shall be scheduled for a prompt hearing with Petitioner and Respondent present.
  - The case shall be scheduled in the ordinary course.

3. Request for *ex parte* orders is denied. No hearing is required.

A hearing on the *ex parte* motion, and any orders issued, is scheduled for: December 6, 2016  
12-06-16 (date of hearing) at 8:30 AM (time of hearing)

Recommended:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Marital Master

\_\_\_\_\_  
Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

11/2/16  
Date

[Signature]  
Signature of Judge

Michael J. Ryan  
Printed Name of Judge

A TRUE COPY ATTEST  
[Signature]  
Lynn R. Killkelley, Clerk

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT**

9th Circuit - Family Division - Merrimack  
4 Baboosic Lake Road  
Merrimack NH 03054-3605

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

**EX PARTE / CONTEMPT MOTION  
ORDER OF NOTICE**

**ROBERT M. SHEPARD, ESQ  
SMITH-WEISS SHEPARD PC  
47 FACTORY STREET  
PO BOX 388  
NASHUA NH 03061-0388**

**Case Name: In the Matter of Steven Summers and Christine Summers  
Case Number: 657-2014-DM-00012**

**Ex Parte Hearing**

The attached Ex Parte Motion, having been duly filed in the above Court, IT IS SO ORDERED that the moving party notify Christine Summers that a hearing will be held. Please advise the Court in writing if this is not enough time.

**Date: December 06, 2016 4 Baboosic Lake Road  
Merrimack NH 03054-3605**

**Time: 8:30 AM**

**Time Allotted: 30 Minutes**

By causing an attested copy of the above-named Ex Parte Motion and of this Order of Notice thereon, to be:

Given in hand to Christine Summers, by a sheriff if served within the state of New Hampshire; Or if served outside New Hampshire, by an officer authorized to make service of process in the state in which this person is served, at least 5 day(s) prior to the above specified hearing date, that said person(s) may appear if cause be seen, and be heard in the premises.

**NOTICE TO BOTH PARTIES:**

- If you are unable to appear at this scheduled hearing, you must request a continuance from the Court in writing at least 10 days in advance of the hearing date. You must also send a copy of the request to the opposing party. Motions to continue filed fewer than 10 days in advance of hearing will only be granted if the Court finds that an emergency or exceptional circumstance exists. You must appear on the scheduled date unless you receive notification from the Court that a request to continue the hearing has been granted.
- If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.
- You are required to comply with Family Division Rule 1.25-A. This rule requires parties disclose to each other numerous financial and other documents. Information about Rule 1.25-A is enclosed with this packet.
- Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

Case Name: In the Matter of Steven Summe and Christine Summers

Case Number: 657-2014-DM-00012

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**EX PARTE/CONTEMPT MOTION ORDER OF NOTICE**

**NOTICE TO PERSON BEING SERVED WITH THIS ORDER:** You have a right to a hearing on these orders within five (5) days after you file a written request with the Court. Unless you request this hearing in writing, the case will be heard on the date shown above.

You have the right to attend and participate at this hearing. If you do not attend, the Court may make decisions without your input.

If you have minor children born to or adopted by you and the person who filed this petition, you must file a **UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA) AFFIDAVIT** (Form NHJB-2660-DFPS) within 30 days of your receipt of this Ex Parte Motion. You must forward a copy of the UCCJEA AFFIDAVIT to the person who filed this petition or to that person's attorney.

A TRUE COPY ATTEST:

November 02, 2016



Lynn R. KillKelley, Clerk of Court

(39)

C: Kysa M. Crusco; Elaine M. Kennedy, ESQ

**NOTICE TO SHERIFF'S DEPARTMENT: In the event of NON EST service, please contact the Court by phone or fax as soon as possible.**

STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

9<sup>TH</sup> CIRCUIT-FAMILY DIVISION-MERRIMACK

NOVEMBER 2016

In the Matter of Steven M. Summers and Christine L. Summers

Case Number: 657-~~2015~~-DM-00012  
2014

**PARTIALLY ASSENTED TO THIRD EMERGENCY MOTION TO SUSPEND  
RESPONDENT'S PARENTING RIGHTS**

NOW COMES the Petitioner, Steven M. Summers, by and through counsel, Smith-Weiss Shepard, PC, and files this Partially Assented to Third Emergency Motion to suspend Christine's parenting rights, and in support thereof states:

1. The Petitioner filed a Second Emergency Motion to Suspend Respondent's Parenting Rights with this Court on June 24, 2016.

2. The basis of this Motion was Christine's alcoholism and the fact that Christine had been arrested on June 23, 2016, by the Bedford Police Department and charged with DWI.

3. During that same week, Christine was arrested by the New Hampshire State Police and charged with DWI.

4. Both DWI cases are still pending.

5. On June 24, 2016, the Court issued an Order on Ex Parte (Emergency) Motion. Pursuant to this Order, the Petitioner was granted temporary sole decision making and residential responsibility for the minor children. Furthermore, Christine was not granted any parenting time with the minor children.

2016 NOV 2  
A  
4:08  
88

TRUE COPY ATTEST  
*Lynn R. Kelleher*  
Lynn R. Kelleher, Clerk

6. The Court held a hearing on this matter on August 2, 2016. At this hearing, the Court heard from Stephen Paymer and the Court heard from the parties and the Guardian ad Litem.

7. The Court verbally modified its previous Order to provide for Sunday and Tuesday supervised parenting times for Christine. Christine was to participate in the Soberlink program and abstain from alcohol use.

8. To date, the Court has never issued a written order on this matter.

9. By a Notice of Decision dated October 31, 2016, the Court issued a Final Parenting Plan.

10. In the Parenting Plan, the Court awarded the parties joint decision making responsibility.

11. Furthermore, the Court ordered that the children shall reside primarily with Steven and that Christine would have parenting time with the children every other weekend from Friday after school until Sunday at 7:00 PM and every Wednesday from after school until Thursday morning at the beginning of school. The Court further ordered that Christine's parenting time would be supervised by her parents.

12. The Parenting Plan ordered that Christine shall not consume alcohol and shall continue in the Paymer Associates program.

13. Since the August 2, 2016 hearing, Christine has participated in the Paymer Associates program. However, Christine has repeatedly tested positive for alcohol consumption.

A TRUE COPY ATTEST  
*Lynn R. Killkelley*  
Lynn R. Killkelley, Clerk

14. As a result of the repeated positive tests for alcohol consumption, Christine's parenting rights had been suspended, pursuant to the recommendations of the Guardian ad Litem.

15. Furthermore, for a period of time, Christine did not live with her parents and although her parents were seeing their grandchildren on a regular basis, Christine was not having parenting time with her children.

16. In fact, Christine last had parenting time with her children on October 14, 2016. At that time, Christine tested positive for alcohol consumption.

17. Upon receiving the Final Order from the Court, Christine is demanding that she be allowed her parenting time as specified in the Final Parenting Plan.

18. This is clearly not in the best interests of the parties' minor children.

19. Christine has not been able to prove that she is able to abstain from alcohol consumption.

20. Christine has not entered intensive out-patient alcohol treatment and does not appear to be in any counseling at all.

21. The parenting rights granted to Christine by the Final Parenting Plan should be suspended indefinitely.

22. Only after Christine has been able to prove that she is completely alcohol-free and she has entered some sort of meaningful counseling, should the Court consider a resumption of parenting time for Christine.

23. Attorney Kysa M. Crusco, Guardian ad Litem, assents to this Motion.

2016 NOV 2 A 1008

A TRUE COPY ATTEST  
*Lynn R. Keck Kelley*  
Lynn R. Keck Kelley, Clerk


WHEREFORE, the Petitioner prays:

- A. That the Court grant Emergency, Ex Parte Relief in this case.
- B. That the Court order that Christine's parenting time shall be suspended.
- C. That the Court order that Steven shall have sole decision making authority.
- D. For such other relief as may be just.

Respectfully submitted,

By His Attorneys  
**SMITH-WEISS SHEPARD, P.C.**  
 47 Factory Street; PO Box 388  
 Nashua, NH 03061  
 (603) 883-1571

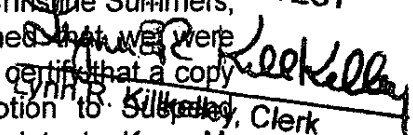
November 2, 2016

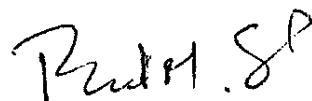
By:   
 Robert M. Shepard – NH Bar #2326

2016 NOV - 2

**CERTIFICATE OF COMPLIANCE**

I hereby certify that a copy of this Partially Assented to Third Emergency Motion to Suspend Respondent's Parenting Rights was sent to Christine Summers, Respondent, pro se, by email and that Christine was informed that we were proceeding to Court on an Emergency, Ex Parte basis. I further certify that a copy of the foregoing Partially Assented to Third Emergency Motion to Suspend Respondent's Parenting Rights was emailed and mailed this date to Kysa M. Crusco, Esquire, Guardian ad Litem

ATTEST  
  
 Lynn B. Keekelly, Clerk

  
 Robert M. Shepard – NH Bar #2326

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

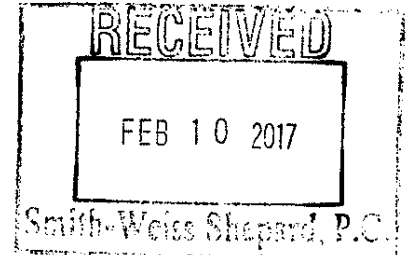
P.55

9th Circuit - Family Division - Merrimack  
4 Baboosic Lake Road  
Merrimack NH 03054-3605

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

NOTICE OF DECISION

ROBERT M. SHEPARD, ESQ  
SMITH-WEISS SHEPARD PC  
47 FACTORY STREET  
PO BOX 388  
NASHUA NH 03061-0388



Case Name: In the Matter of Steven Summers and Christine Summers  
Case Number: 657-2014-DM-00012

Enclosed please find a copy of the Court's Order dated February 06, 2017 relative to:

Order On Mr. Summers' Ex Parte Motion (#195), Mr. Summers'  
Motion For Reconsideration (#202), Ms. Summers' Motion For  
Reconsideration (#201) And Ms. Summers' Motion For  
Contempt (#216)  
Notice Of Review Hearing  
Notice Of Child Support Referee Hearing

Any party obligated to pay child support is advised that it is his/her responsibility to keep the Court (and the Division of Human Services if appropriate) advised of his/her current mailing address in writing, until such time as support payments are terminated.

This matter will become final on 03/10/2017 known as the Judgment Day, if no objections or appeals are filed. Objections must be filed with this court within 10 days of the date of the Notice of Decision, appeals to the Supreme Court within 30 days.

February 07, 2017

(39)

C: Kysa M. Crusco; Elaine M. Kennedy, ESQ; DCYF

Lynn R. KillKelley  
Clerk of Court

Smith-Weiss Shepard, P.C.

- Docket
- File
- Copy to client - DATE 2/10/17
- Client attendance required? Y-N
- Follow up

we have 30 days for  
2/17 to file a  
S. Ct. Motion & Appeal



# The State of New Hampshire

HILLSBOROUGH, SS

9<sup>th</sup> Circuit-Family Division-MERRIMACK

In the Matter of Mr. Stephen M. Summers and Ms. Christin L. Summers

657-2014-DM-00012

**ORDER ON MR. SUMMERS' EX PARTE MOTION (#195),**  
**MR. SUMMERS' MOTION FOR RECONSIDERATION (#202)**  
**MS. SUMMERS' MOTION FOR RECONSIDERATION (#201)**  
**AND MS. SUMMERS' MOTION FOR CONTEMPT (#216)**

A hearing on Mr. Summers' Ex parte Motion, Ms. Summers' Motion for Reconsideration and Mr. Summer's Motion for Reconsideration was held on December 9, 2016. Both parties appeared with counsel. Also present was the GAL.

The overwhelming evidence presented at the hearing was that at least until Mr. Summers filing of his Ex Parte Motion, Ms. Summer's was in substantial non-compliance with the Court's Order regarding her use of alcohol. The evidence was that it was only after Mr. Summer's filed his Ex Parte Motion and the Court issued Temporary Orders did Ms. Summers start to take proactive measures to deal with her alcoholism. The evidence also showed that once Ms. Summers started to take measures to deal with her alcoholism, such as entering an IOP, she has been clean and sober.

While the Court continues to be concerned about Ms. Summers' relapsing, the Court also recognizes that she has a strong bond with the children and they with her. The Court also recognizes that Ms. Summers has taken the steps necessary to deal with the disease of alcoholism that she had for so long denied she suffered from. The Court feels that as long as Ms. Summers continues in counseling, her parenting time is supervised by her parents and she continues in the Paymer Associates program that sufficient safeguards are in effect to ensure the children's safety. Therefore the Court finds that the Court's Final Parenting Plan shall be implemented with the exception that Ms. Summers Wednesday parenting time shall be from 5:00 pm until 8:00 pm not overnight.

The Court enters the following Orders:

- 1) Mr. Summers' Ex Parte Motion is **denied** however the Court finds that he was justified in bringing it and awards him reasonable attorney fees for the cost of bringing it. Counsel for Mr. Summers shall submit an Affidavit of Attorney's fees for the Court's approval.
- 2) The Court's Final Parenting Plan is back in effect with the exception that Ms. Summers' Wednesday parenting time shall be from 5:00 pm until 8:00 pm not overnight.
- 3) The GAL shall stay involved in the case to the extent that she shall continue to monitor Ms. Summers compliance with the Paymer Associates program. Ms. Summers shall be solely responsible for the GAL's costs for the Ex Parte hearing and going forward.
- 4) Mr. Summers' Motion for Reconsideration is **denied**.
- 5) Ms. Summers' Motion for Reconsideration is **denied**.
- 6) Ms. Summers' Motion for Contempt is **denied**.
- 7) The Clerk shall schedule a hearing before the Child Support Referee on the issue of child support.
- 8) The Clerk shall schedule a Review Hearing in approximately six months to review Ms. Summers compliance with Court Orders.

So ordered this 6<sup>th</sup> day of February 2017.

  
Michael J. Ryan, Justice

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

Court Name: 9<sup>th</sup> Circuit – Family Division – Merrimack  
Case Name: In the Matter of: Steven M. Summers and Christine L. Summers  
Case Number: 657-2014-DM-00012

**Motion to Schedule Review Hearing**

**Now Comes** the Respondent, Christine L. Summers in the above referenced matter, by and through her attorneys, SOLOMON PROFESSIONAL ASSOCIATION and Elaine M. Kennedy, Esquire and respectfully requests that this Honorable Court schedule a one hour Review Hearing in the above-referenced matter pursuant to the Court's Final Order on Parenting Plan and, in support thereof, states as follows:

1. After a four day trial in the above matter at which both parties appeared with their counsel of record at the time and offered testimony and evidence to the Court, the Court issued a Final Decree of Divorce dated October 30, 2016 which became final on July 14, 2017.

2. The Court's Final Order on Parenting Plan at page 1 specially states, inter alia, that "while the attached Parenting Plan is Final, it is subject to review in 6 months to determine if the parenting schedule should be modified again to allow shared or equal parenting time." The Court additionally directed on page 2 of its Order that : "The Clerk is to schedule a 1 hour Review Hearing in approximately 6 months to determine whether the Final Parenting Plan should be modified."

3. In its Final Order at page 3, the Court ordered, inter alia: "Should either party appeal this Final Decree of Divorce, the Final Parenting Plan shall remain in effect during the pendency of the appeal..."

4. The Final Parenting Plan has been in effect for nearly eleven months.

5. Counsel for Respondent has contacted Respondent who assents to the filing of this Motion.

6. Prior to the filing of this Motion, counsel for Respondent contacted counsel for Petitioner to inquire if any agreement could be reached by the parties to modify the Final Parenting Plan to which counsel for Respondent received a negative response.

7. Due to the nature of this pleading counsel for Respondent did not seek assent from counsel for Petitioner.

**WHEREFORE, YOUR RESPONDENT** respectfully requests this Honorable Court:

- A. Grant Respondent's Motion for Review Hearing; and
- B. Schedule a 1 hour Review Hearing on the parties' Final Parenting Plan relative to modifying the residential responsibility of the parties at the Court's earliest convenience; and
- C. For such other and further relief as may be just and necessary.


Date: October 7, 2017

Respectfully submitted,  
Christine L. Summers  
By Her Attorneys,  
SOLOMON PROFESSIONAL ASSOCIATION

By:



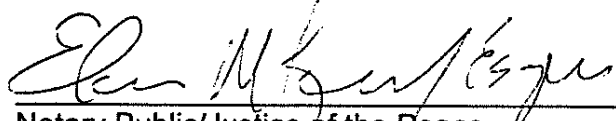
Elaine M. Kennedy, Esquire  
One Buttrick Road  
P.O. Box 937  
Londonderry, New Hampshire 03053  
(603) 437-3700

  
Christine L. Summers

State of New Hampshire  
County of Rockingham

On this the 2<sup>nd</sup> day of October, 2017, personally appeared Christine L. Summers and made oath that the facts contained in the foregoing Motion To Schedule Review Hearing are true to the best of her knowledge and belief.

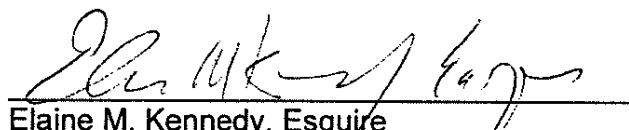
Before me,

  
\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires:

ELAINE M. KENNEDY  
Justice of the Peace \* New Hampshire  
My Commission Expires: December 20, 2018

**CERTIFICATION OF SERVICE**

I, Elaine M. Kennedy, Esquire hereby certify a copy of the foregoing Motion To Schedule Review Hearing was this 1<sup>st</sup> day of October 2017, forwarded to Robert Shephard, Esquire as counsel for Petitioner and to Kysa M. Crusco, Guardian Ad Litem.

  
\_\_\_\_\_  
Elaine M. Kennedy, Esquire

STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

9<sup>TH</sup> CIRCUIT-FAMILY DIVISION-MERRIMACK

OCTOBER, 2017

In the Matter of Steven M. Summers and Christine L. Summers

Case Number: 657-2014-DM-00012

**OBJECTION TO MOTION TO SCHEDULE REVIEW HEARING**

NOW COMES the Petitioner, Steven M. Summers, by and through counsel, Smith-Weiss Shepard, PC, and objects to Respondent's Motion to Schedule Review Hearing, and in support thereof states:

1. The Respondent is looking for the Court to schedule a Review Hearing in this matter to determine whether or not the parenting schedule should be modified to allow for shared or equal parenting time.

2. The Petitioner objects to any such Review Hearing and asserts that any significant change to the parenting schedule would not be in the best interests of the children.

3. The Court issued a Final Parenting Plan by a Notice of Decision dated October 31, 2016.

4. The Final Parenting Plan provided that the children shall reside primarily with Steven and provided parenting time for Christine on every other weekend and one (1) weeknight.

5. The Final Parenting Plan provided that Christine's parenting time shall be supervised by her parents and that Christine shall not consume alcohol.

6. In addition to the Final Parenting Plan, the Court also issued a Final Order on Parenting Plan. At the conclusion of the Final Order on Parenting Plan, which was dated October 30, 2016, the Court indicated that the clerk is to schedule a one (1) hour Review Hearing in approximately six (6) months to determine whether the Final Parenting Plan should be modified.

7. Immediately after the issuance of the Final Parenting Plan and the Final Order on Parenting Plan, the Petitioner filed a Partially Assented to Third Emergency Motion to Suspend Respondent's Parenting Rights.

8. The Court granted the Petitioner's Third Emergency Motion by an Ex Parte Temporary Order dated November 2, 2016 and the Court ordered that a hearing on the Ex Parte Motion would be held on December 6, 2016.

9. By a Notice of Decision dated February 7, 2017, the Court issued an Order on the Ex Parte Motion filed by Steven, the Motions for Reconsideration filed by both parties and the Motion filed by Christine for contempt. The Court also issued a Notice of Review Hearing and a Notice of Child Support Referee Hearing.

10. In the Court's Order dated February 6, 2017 and issued by a Notice of Decision dated February 7, 2017, the Court stated in part as follows:

"The overwhelming evidence presented at the hearing was that at least until Mr. Summers filing of his Ex Parte Motion, Ms. Summer's was in substantial non-compliance with the Court's Order regarding her use of

alcohol. The evidence that it was only after Mr. Summer's filed his Ex Parte Motion and the Court issued Temporary Orders did Ms. Summers start to take proactive measures to deal with her alcoholism. The evidence also showed that once Ms. Summers started to take measures to deal with her alcoholism, such as entering an IOP, she has been clean and sober."

11. The Court denied the Ex Parte Motion filed by Steven, but awarded Steven attorney's fees.

12. The Court ordered that the Final Parenting Plan is back in effect with the exception that Ms. Summer's Wednesday parenting time shall be from 5:00 PM to 8:00 PM, no overnight.

13. The primary residence of the minor children have been with Steven for now more than two (2) years, with alternating weekend parenting time and one (1) weeknight parenting time for Christine.

14. Prior to the Court issuing the Final Parenting Plan, the children primarily resided with Steven and Christine had supervised parenting time with the children and Christine's parents.

15. RSA 461-A:11, I states as follows:

"The Court may issue an Order modifying a permanent Order concerning parental rights and responsibilities under any of the following circumstances:"

16. The Final Parenting Plan issued by the Court was a permanent Order concerning parental rights and responsibilities.



17. In order to modify such a permanent Order, the Respondent must allege one (1) or more of the statutory factors listed in RSA 461-A:11, I.

18. In the Motion to Schedule Review Hearing, the Respondent has not listed any of the statutory factors for a modification of parental rights and responsibilities and the Respondent has not alleged that a change in the Parenting Plan would be in the best interests of the children.

19. The statute provides for the exclusive means of modifying a Parenting Plan. Without making a reference to any of the statutory factors in the statute, there is no basis for the Court to modify the Final Parenting Plan in this case.

20. Before any Review Hearing is scheduled (and the Petitioner does not believe that any such Review Hearing should be scheduled), the Court should provide direction to the Guardian ad Litem.

21. If the Court intends on reviewing the Parenting Plan, it is logical to conclude that the Guardian ad Litem would be asked to conduct a further investigation to determine whether or not Christine has complied with the terms of the Final Parenting Plan and Order and whether or not the statutory requirements have been met for a modification of the Parenting Plan.

22. Further, the fee for any such further investigation by the Guardian ad Litem should be paid for exclusively by Christine.

23. Reviewing the Final Parenting Plan at this juncture, is unfair to the parties and the children. This case needs to have final closure and not remain open indefinitely.

**WHEREFORE**, the Petitioner prays:

- A. That the Court deny the Respondent's Motion to Schedule Review Hearing.
- B. For such other relief as may be just.

Respectfully submitted,


Steven M. Summers  
By His Attorneys  
**SMITH-WEISS SHEPARD, P.C.**  
47 Factory Street; PO Box 388  
Nashua, NH 03061  
(603) 883-1571  
[rms@nhlaw-nashua.com](mailto:rms@nhlaw-nashua.com)

October 10, 2017

By:   
\_\_\_\_\_  
Robert M. Shepard – NH Bar #2326

**CERTIFICATE OF COMPLIANCE**

I hereby certify that a copy of said Objection to Motion to Schedule Review Hearing was emailed and mailed this 10<sup>th</sup> day of October, 2017 to Elaine M. Kennedy, Esquire, opposing counsel and Kysa M. Crusco, Esquire, Guardian ad Litem.

  
\_\_\_\_\_  
Robert M. Shepard – NH Bar #2326

**New Hampshire Statutes**

**Title 43. DOMESTIC RELATIONS**

**Chapter 461-A. PARENTAL RIGHTS AND RESPONSIBILITIES**

*Current through 2018 Legislative Session*

**§ 461-A:11. Modification of Parental Rights and Responsibilities**

- I. The court may issue an order modifying a permanent order concerning parental rights and responsibilities under any of the following circumstances:
  - (a) The parties agree to a modification.
  - (b) If the court finds repeated, intentional, and unwarranted interference by a parent with the residential responsibilities of the other parent, the court may order a change in the parental rights and responsibilities without the necessity of showing harm to the child, if the court determines that such change would be in accordance with the best interests of the child.
  - (c) If the court finds by clear and convincing evidence that the child's present environment is detrimental to the child's physical, mental, or emotional health, and the advantage to the child of modifying the order outweighs the harm likely to be caused by a change in environment.
  - (d) If the parties have substantially equal periods of residential responsibility for the child and either each asserts or the court finds that the original allocation of parental rights and responsibilities is not working, the court may order a change in allocation of parental rights and responsibilities based on a finding that the change is in the best interests of the child.
  - (e) If the court finds by clear and convincing evidence that a minor child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature minor child as to the parent with whom he or she wants to live. Under these circumstances, the court shall also give due consideration to other factors which may have affected the minor child's preference, including whether the minor child's preference was based on undesirable or improper influences.
  - (f) The modification makes either a minimal change or no change in the allocation of parenting time between the parents, and the court determines that such change would be in the best interests of the child.

- (g) If one parent's allocation of parenting time was based in whole or in part on the travel time between the parents' residences at the time of the order and the parents are now living either closer to each other or further from each other by such distance that the existing order is not in the child's best interest.
  - (h) If one parent's allocation or schedule of parenting time was based in whole or in part on his or her work schedule and there has been a substantial change in that work schedule such that the existing order is not in the child's best interest.
  - (i) If one parent's allocation or schedule of parenting time was based in whole or in part on the young age of the child, the court may modify the allocation or schedule or both based on a finding that the change is in the best interests of the child, provided that the request is at least 5 years after the prior order.
- II. Except as provided in RSA 461-A:11, I(b)-(i) for parenting schedules and RSA 461-A:12 for a request to relocate the residence of a child, the court may issue an order modifying any section of a permanent parenting plan based on the best interest of the child. RSA 461-A:5, III shall apply to any request to modify decision-making responsibility.
- III. For the purposes of this section, the burden of proof shall be on the moving party.

**Cite as RSA 461-A:11**

**History.** Amended by 2016, 134: 2, eff. 1/1/2017.

Amended by 2016, 134: 1, eff. 1/1/2017.

Amended by 2011, 162: 2, eff. 8/13/2011.

Amended by 2011, 162: 1, eff. 8/13/2011.

**Note:**

2005, 273:1, eff. Oct. 1, 2005. 2006, 232:1, eff. June 1, 2006. 2007, 213:1, eff. Jan. 1, 2008.

STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

9<sup>TH</sup> CIRCUIT-FAMILY DIVISION-MERRIMACK

2016 JUN 24 A.D. 02  
JUNE, 2016

In the Matter of Steven M. Summers and Christine L. Summers

Case Number: 657-2016-DM-00012

**SECOND EMERGENCY MOTION TO SUSPEND RESPONDENT'S  
PARENTING RIGHTS**

NOW COMES the Petitioner, Steven M. Summers, by and through counsel, Smith-Weiss Shepard, PC, and files this Second Emergency Motion to Suspend Christine's Parenting Rights, and in support thereof states:

1. On March 8, 2016, the Petitioner filed an Emergency Motion to Suspend Respondent's Temporary Parenting Rights.
2. This first Emergency Motion was filed because the Petitioner learned that a domestic disturbance occurred at Christine's parents' house in Merrimack and that Christine was removed from her parents' home by the Merrimack Police, all while the children were at the home.
3. The Police Report from the Merrimack Police Department for the incident in question on March 2, 2016 as well as a follow-up on March 3, 2016 was attached to the Motion.
4. It is clear from reviewing the Police Report that Christine was intoxicated and the police officer observed slurred speech, unsteady on her feet and difficult to converse with.

5. By a Notice of Decision dated April 11, 2016, the Court issued the Order on Petitioner's Emergency Motion to Suspend Respondent's Temporary Parenting Rights.

6. The Court noted in part in its Order as follows:

"While the Respondent continues to deny that she has a drinking problem when the police officers searched her bedroom on March 2, 2016 to find a firearm, they found a nearly full bottle of Vodka, an empty bottle of wine, six empty beer cans, an empty bottle of Vodka, an empty box of wine, a full box of wine and an empty bag of wine."

7. The Court ordered Christine to submit to an EtG Hair Alcohol Test within ten (10) days of the Order.

8. The Court further ordered that Christine's parenting time shall be supervised at all times by her parents.

9. Christine's parents were ordered to notify the GAL of any use of alcohol by the Respondent.

10. Christine submitted a hair follicle test to the Court that showed a negative result. This would appear to be contradictory to the evidence presented to the Court at the March 9, 2016 hearing. Christine has not fully complied with the Order of this Court.

11. On Thursday, June 23, 2016, the Petitioner learned, through coincidental events, that Christine had been arrested by the Bedford Police Department.

12. A friend of the Petitioner observed a Q7 Black Audi at the Bedford Dump on Thursday morning. The friend also observed a woman being arrested by the Bedford Police who appeared to be Christine.

13. Upon contacting the Bedford Police Department, it was confirmed that Christine was in fact arrested by the Bedford Police at 10:59 AM and charged with DWI.

14. The present, overwhelming concern in this case, should be the welfare of the parties' minor children.

15. Throughout the long history of this case, Christine has denied that she has an alcohol problem.

16. As the Court knows, Christine has had several previous alcohol arrests.

17. Christine was arrested on June 6, 2015 and charged with DWI. This charge was ultimately reduced to a reckless operation.

18. Christine was previously arrested by the Bedford Police Department and charged with DWI. This charge was reduced to reckless operation.

19. The two (2) arrests, this week, for DWI, absolutely confirms that Christine has a severe alcohol problem.

20. For the welfare and safety of the minor children, Christine's parenting rights should be suspended.

21. The resumption of Christine's parenting rights should only occur, under controlled circumstances, once Christine has enrolled in appropriate, in-patient alcohol rehabilitation and there is evidence of sobriety and stability.

22. If not for the coincidental information obtained about Christine's arrest yesterday, it is doubtful that the Petitioner and / or the Guardian ad Litem would have learned of this arrest or the arrest that occurred on Monday.

23. Christine's parents were ordered by this Court to report any alcohol consumption by Christine.

24. Although Christine was apparently arrested for DWI on Monday, which would entail alcohol consumption, Christine's parents did not report this arrest until they were contacted by the Guardian ad Litem on Thursday.

**WHEREFORE**, the Petitioner, prays:

- A. That the Court grant emergency, ex-parte relief in this case.
- B. That the Court order that Christine's parenting time shall be suspended.
- C. That the Court order that Steve shall have sole decision-making authority.
- D. That the Court order that Steve's child support obligation shall be suspended, indefinitely.
- E. That the Court order that Christine's parenting rights may only be re-established, under controlled circumstances, after Christine has enrolled in an appropriate, in-patient alcohol rehabilitation program.
- F. For such other relief as may be just.

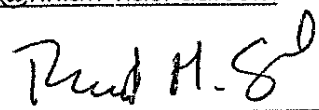


Respectfully Submitted,



Steven M. Summers  
By His Attorneys  
**SMITH-WEISS SHEPARD, P.C.**  
47 Factory Street; PO Box 388  
Nashua, NH 03061  
(603) 883-1571  
[rms@nhlaw-nashua.com](mailto:rms@nhlaw-nashua.com)


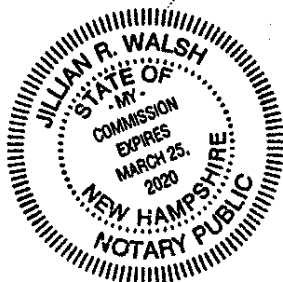
June 24, 2016

By:   
Robert M. Shepard – NH Bar #2326

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

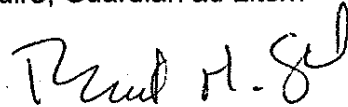
Before me, the undersigned officer, personally appeared Steven M. Summers, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument and made oath that all of the facts contained in the foregoing instrument are true to the best of his knowledge and belief.

Date: Jun 24, 2016

  
Justice of the Peace/Notary Public

**CERTIFICATE OF COMPLIANCE**

I hereby certify that a copy of Second Emergency Motion to Suspend Respondent's Parenting Rights was sent to William Aivalikles, Esquire, opposing counsel, by e-mail and that I informed Attorney Aivalikles that I was proceeding to Court on an emergency, ex-parte basis. I further certify that a copy of the foregoing Second Emergency Motion to Suspend Respondent's Parenting Rights was emailed and mailed to Kysa M. Crusco, Esquire, Guardian ad Litem



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Robert M. Shepard – NH Bar #2326

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
http://www.courts.state.nh.us

Court Name: 9th Circuit - Family Division - Merrimack  
Case Name: In the matter of Steven Summers and <sup>2016 JUN 24 A 10: 24</sup> CHRISTINE SUMMERS  
Case Number: 057-2014-DM-00012  
(if known)

MOTION: Assent to Ex-Parte.

I, Kyssa Crow

state the following facts and request the following relief:

On June 23, 2016, the GAC learned that Christine may have been arrested earlier in the day. The GAC called Christine's mother, Linda Summers who confirmed she had been arrested for DWI that day in Bedford and she had also been arrested for DWI on Monday. She and Christine were at a doctor's appointment to discuss treatment. Christine called the GAC on June 24, 2016 she confirmed she had been arrested on Monday, June 20, 2016 in Candia on Route 101. She scheduled a GAC appointment today at 5:00pm with Christina Minasian and an intake for IOP services

Date: 6/24/16  
Telephone: 603-627-3668

Signature: [Signature]  
Address: 24 Eastman Ave., Ste C4  
Bedford, NH 03110

I certify that on this date I provided a copy of this document to \_\_\_\_\_ (other party) or to \_\_\_\_\_ (other party's attorney) by:  Hand-delivery OR  US Mail OR  E-mail (E-mail only by prior agreement of the parties based on Circuit Court Administrative Order).

Date: 6/24/16

Signature: [Signature]

**ORDER**

Motion granted.  Motion denied.

Recommended:

Date: \_\_\_\_\_

Signature of Marital Master: \_\_\_\_\_

Printed Name of Marital Master: \_\_\_\_\_

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date: \_\_\_\_\_

Signature of Judge: \_\_\_\_\_

Printed Name of Judge: \_\_\_\_\_

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

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9<sup>th</sup> Circuit - Family Division-Merrimack  
4 Baboosic Lake Road  
Merrimack, NH 03054-03605

Telephone: (603) 423-8592  
TTY/TDD Relay: (800) 735-2954  
<http://www.courts.state.nh.us>

Case Name: In the Matter of Steven Summers and Christine Summers  
Case Number: 657-2015-DM-00012

at the Nashua Counseling Center on Tuesday, June 28, 2016.

The frequency and severity of the alcohol related incidents in regards to Christine are very concerning to the GAL. The GAL assents to Petitioner's request to temporarily suspend Respondent's parenting time.

The GAL requests a prompt hearing to review parenting time and Christine's treatment.

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
http://www.courts.state.nh.us

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Court Name: 9th Circuit-Family Division-Merrimack  
Case Name: In The Matter of Steven M. Summers and Christine L. Summers  
Case Number: 657-2014-DM-12

ORDER ON EX PARTE (EMERGENCY) MOTION

A motion for ex parte or emergency orders has been submitted. The Court has reviewed the motion.

1. The Court issues the following orders, which will remain in effect until further hearing:
- A. The  Petitioner  Respondent (check one) shall have temporary sole decision-making and residential responsibility for the minor child(ren).
  - B. The  Petitioner  Respondent (check one) shall have temporary sole residential responsibility for the minor child(ren).
  - C. The  Petitioner  Respondent (check one) shall not interfere in any way with the personal liberty or property of the other nor the household property used in the care of the minor child(ren), nor do any act to interfere with the other parent's decision-making and residential responsibilities for the minor child(ren).
  - D. The  Petitioner  Respondent (check one) is awarded temporary exclusive use of the parties' residence at \_\_\_\_\_ (residence address) and household furniture and furnishings therein.
  - E. The  Petitioner  Respondent (check one) shall not enter the residence or property of the other.
  - F. Each party is restrained and enjoined from transferring, encumbering, hypothecating, concealing or otherwise disposing of any property except in the ordinary course of business or for the necessities of life.
  - G. Other: The Petitioner's Child Support Obligation is stayed pending further Order of the Court
2. No ex parte or emergency orders are issued - no showing of imminent danger of irreparable harm.
- The case shall be scheduled for a prompt hearing with Petitioner and Respondent present.
  - The case shall be scheduled in the ordinary course.

3. Request for ex parte orders is denied. No hearing is required.

A hearing on the ex parte motion, and any orders issued, is scheduled for:

7-19-16 (date of hearing) at 8:15 AM (time of hearing)

Recommended:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Marital Master

\_\_\_\_\_  
Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

June 24, 2016  
Date

MJR  
Signature of Judge  
Michael J Ryan  
Printed Name of Judge

TRUE COPY ATTEST  
Lynn R. Kilian, J.V. Clerk

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT**

9th Circuit - Family Division - Merrimack  
4 Baboosic Lake Road  
Merrimack NH 03054-3605

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

**EX PARTE / CONTEMPT MOTION  
ORDER OF NOTICE**

**ROBERT M. SHEPARD, ESQ  
SMITH-WEISS SHEPARD PC  
PO BOX 388  
NASHUA NH 03061-0388**

Case Name: **In the Matter of Steven Summers and Christine Summers**

Case Number: **657-2014-DM-00012**

**Ex Parte Hearing**

The attached Second Emergency Motion to Suspend Respondent's Parenting Rights, having been duly filed in the above Court, IT IS SO ORDERED that the moving party notify Christine L Summers that a hearing will be held. Please advise the Court in writing if this is not enough time.

**Date: July 19, 2016**

**4 Baboosic Lake Road**

**Time: 8:15 AM**

**Merrimack NH 03054-3605**

**Time Allotted: 30 Minutes**

By causing an attested copy of the above-named Second Emergency Motion to Suspend Respondent's Parenting Rights and of this Order of Notice thereon, to be:

Given **in hand** to Christine L Summers, by a sheriff if served within the state of New Hampshire; Or if served outside New Hampshire, by an officer authorized to make service of process in the state in which this person is served, at least 3 day(s) prior to the above specified hearing date, that said person(s) may appear if cause be seen, and be heard in the premises.

**NOTICE TO BOTH PARTIES:**

- If you are unable to appear at this scheduled hearing, you must request a continuance from the Court in writing at least 10 days in advance of the hearing date. You must also send a copy of the request to the opposing party. Motions to continue filed fewer than 10 days in advance of hearing will only be granted if the Court finds that an emergency or exceptional circumstance exists. You must appear on the scheduled date unless you receive notification from the Court that a request to continue the hearing has been granted.
- If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.
- You are required to comply with Family Division Rule 1.25-A. This rule requires parties disclose to each other numerous financial and other documents. Information about Rule 1.25-A is enclosed with this packet.
- Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

Case Name: In the Matter of Steven Summers and Christine Summers

Case Number: 657-2014-DM-00012

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**EX PARTE/CONTEMPT MOTION ORDER OF NOTICE**

**NOTICE TO PERSON BEING SERVED WITH THIS ORDER:** You have a right to a hearing on these orders within five (5) days after you file a written request with the Court. Unless you request this hearing in writing, the case will be heard on the date shown above.

You have the right to attend and participate at this hearing. If you do not attend, the Court may make decisions without your input.

If you have minor children born to or adopted by you and the person who filed this petition, you must file a **UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA) AFFIDAVIT** (Form NHJB-2660-DFPS) within 30 days of your receipt of this Second Emergency Motion to Suspend Respondent's Parenting Rights. You must forward a copy of the UCCJEA AFFIDAVIT to the person who filed this petition or to that person's attorney.

A TRUE COPY ATTEST:

June 24, 2016

  
Lynn R. KillKelley, Clerk of Court

(102)

C: Kysa M. Crusco; William E. Aivalikles, ESQ

**NOTICE TO SHERIFF'S DEPARTMENT: In the event of NON EST service, please contact the Court by phone or fax as soon as possible.**