

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2021 TERM

Due: August 2, 2021

Case No: 2021-0032 and 2021-0036

**In the Matter of Matthew Routhier and Kelly Routhier**

Mandatory Appeal Pursuant to Supreme Court Rule 7

Appeal from a Decision of the

6<sup>th</sup> Circuit-Family Division- Hooksett

**BRIEF OF RESPONDENT/APPELLANT**

**KELLY ROUTHIER**

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## STATUTES

### § 458:16-a. Property Settlement

I. Property shall include all tangible and intangible property and assets, real or personal, belonging to either or both parties, whether title to the property is held in the name of either or both parties. Intangible property includes, but is not limited to, employment benefits, vested and non-vested pension or other retirement benefits, or savings plans. To the extent permitted by federal law, property shall include military retirement and veterans' disability benefits.

II. When a dissolution of a marriage is decreed, the court may order an equitable division of property between the parties. The court shall presume that an equal division is an equitable distribution of property, unless the court establishes a trust fund under RSA 458:20 or unless the court decides that an equal division would not be appropriate or equitable after considering one or more of the following factors:

- (a) The duration of the marriage.
- (b) The age, health, social or economic status, occupation, vocational skills, employability, separate property, amount and sources of income, needs and liabilities of each party.
- (c) The opportunity of each party for future acquisition of capital assets and income.
- (d) The ability of the custodial parent, if any, to engage in gainful employment without substantially interfering with the interests of any minor children in the custody of said party.
- (e) The need of the custodial parent, if any, to occupy or own the marital residence and to use or own its household effects.
- (f) The actions of either party during the marriage which contributed to the growth or diminution in value of property owned by either or both of the parties.
- (g) Significant disparity between the parties in relation to contributions to the marriage, including contributions to the care and education of the children and the care and management of the home.
- (h) Any direct or indirect contribution made by one party to help educate or develop the career or employability of the other party and any interruption of either party's educational or personal career opportunities for the benefit of the other's career or for the benefit of the parties' marriage or children.
- (i) The expectation of pension or retirement rights acquired prior to or during the marriage.
- (j) The tax consequences for each party.
- (k) The value of property that is allocated by a valid prenuptial contract made in good faith by the parties.
- (l) The fault of either party as specified in RSA 458:7 if said fault caused the breakdown of the marriage and:
  - (1) Caused substantial physical or mental pain and suffering; or
  - (2) Resulted in substantial economic loss to the marital estate or the injured party.

(m) The value of any property acquired prior to the marriage and property acquired in exchange for property acquired prior to the marriage.

(n) The value of any property acquired by gift, devise, or descent.

(o) Any other factor that the court deems relevant.

II-a. Tangible property shall include animals. In such cases, the property settlement shall address the care and ownership of the parties' animals, taking into consideration the animals' wellbeing.

III. If either or both parties retain an ownership interest in an education savings account held on behalf of a child of the marriage, including a qualified tuition program under 26 U.S.C. Section 529, the court may, in its discretion, preserve the account for its original purpose or may treat the account as property of the marriage subject to equitable division under this section.

IV. The court shall specify written reasons for the division of property which it orders.

(Amended by 2019, 130:1, eff. 8/24/2019.)

1987, 278:1. 2000, 178:1. 2004, 136:3, eff. May 19, 2004.

NH Stat. 458:16-a Property Settlement (New Hampshire Statutes (2021 Edition))

#### § 458:19-a. Term and Reimbursement Alimony

I. The court may order term alimony upon agreement of the parties or in the absence of an agreement, at the request of either party by petition or motion in a case for divorce, legal separation, or annulment. Any request for alimony shall be made either before the final decree is effective or not later than 5 years from the effective date. The purpose of term alimony is to allow both parties to maintain a reasonable standard of living. If the issue of term alimony is contested, the court may order term alimony only if it finds that:

(a) The party in need lacks sufficient income, property, or both, including property apportioned in accordance with RSA 458:16-a, to provide for his or her own reasonable needs, taking into account the marital lifestyle and the extent to which the parties must both fairly adjust their standards of living based on the creation and maintenance of separate households; or

(b) The party in need is unable to be self-supporting at a standard of living that meets reasonable needs through appropriate employment, or is allocated parental rights and responsibilities under RSA 461-A for a child of the parties whose condition or circumstances make it appropriate that the parent not seek employment outside the home or limit the hours of such employment; and

(c) The party from whom alimony is sought is able to meet his or her own reasonable needs, taking into account the marital lifestyle and the extent to which the parties must both fairly adjust their standards of living based on the creation and maintenance of separate households, while meeting the reasonable needs of the party seeking alimony.

#### II.

(a) The amount of a term alimony order shall be the lesser of the payee's reasonable need, or a formula based on 23 percent of the difference between the parties' gross incomes at the time the order is created, unless the court finds that justice requires an adjustment. In making this calculation, gross income as defined in RSA 458:19, V shall be:

(1) Reduced by subtracting amounts that are ordered and actually paid for:

(A) Child support or alimony, including child support for the parties' joint children; and

(B) Costs for health insurance coverage or other specified expenses for the benefit of the other party; and

(2) As to the payee's income, adding the amount of child support ordered for the parties' joint children.

(b) The court may vary this formula when an equal or approximately equal parenting schedule has resulted in an adjustment to the child support guidelines under RSA 458-C:5. The court may make a step-down or step-up order that begins with the current reasonable need or the formula and decreases or increases over time. If child support is a factor in determining the amount of alimony, alimony may be recalculated when child support is modified or ended, without meeting the tests for modification in RSA a, I.

(c) The formula percentage in subparagraph (a) of 23 percent is based on alimony not being deductible to the payor and taxable to the payee under federal income tax law. If alimony becomes deductible to the payor and taxable to the payee under federal income tax law, the formula shall be based on 30 percent of the difference between the parties' gross incomes.

III. The maximum duration of term alimony shall be 50 percent of the length of the marriage, unless the parties agree otherwise or the court finds that justice requires an adjustment under paragraph IV. If justice requires, the court may use a different beginning or ending date in measuring the length of the marriage. Term alimony shall end on the remarriage of the payee, unless the order is based on an agreement of the parties that provides otherwise.

IV. In any term alimony order, the court may adjust the formula amounts, duration limitations, or both, if the parties agree or if the court finds that justice requires an adjustment. The party seeking an adjustment shall have the burden of proof. Special circumstances that may justify an adjustment include, but are not limited to, the following:

(a) Health, including disability, chronic or severe mental or physical illness, or other unusual health circumstances of either party.

(b) The degree and duration of any financial dependency of one party on the other.

(c) Vocational skills, occupation, benefits available from employment, and the present and future employability of both parties.

(d) Voluntary unemployment or underemployment of either party.

(e) The special needs of a minor or adult child of the parties.

(f) Property awarded under RSA 458:16-a.

(g) The conduct of either party during the marriage, including abuse as defined in RSA 173-B:1, I or fault as described in RSA 458:16-a, II(I).

(h) Differences in the parties' benefits under the federal Old Age, Survivors, and Disability Insurance Social Security program.

(i) Diminution of significant assets by a party, coupled with a lack of sufficient assets from which property can be equitably divided or recouped under RSA 458:16-a.

(j) The impact of federal tax law on the parties including the allocation of applicable tax-related benefits.

(k) Any other reason the court deems material and relevant.

V. The court may order reimbursement alimony upon agreement of the parties or in the absence of an agreement, at the request of either party by petition or motion in a case for divorce, legal separation, or annulment. The request for reimbursement alimony shall be made before the final decree is effective. The purpose of reimbursement alimony is to compensate the payee for economic or non-economic contribution to the financial resources of the payor, where the property subject to division under RSA 458:16-a is either inappropriate or inadequate to provide such compensation. The contribution to the payor's financial resources may include support of education or job training, or an investment of time or money. The following shall apply to reimbursement alimony orders:

(a) The court shall make a finding that the order is equitable;

(b) The maximum time period shall be 5 years from the final decree effective date, unless the parties agree otherwise; and

(c) It shall not be modified, except by agreement.

VI. Each order granting, denying, renewing, modifying, or refusing to renew or modify term or reimbursement alimony shall state:

(a) If alimony is awarded:

(1) The type or types of alimony;

(2) The duration or number of payments, the method or methods of payment, and any limitations imposed;

(3) Whether full retirement age or actual retirement will impact payments;

(4) Whether security under RSA a, VI is required; and

(5) Whether the order is based on an agreement of the parties.

(b) If the proceeding was contested, the order shall include:

(1) Findings supporting the court's decision to order or deny the requested alimony;

(2) Findings as to any special circumstances justifying an adjustment to either the formula amounts or durational limitations; and

(3) Findings supporting any award of reimbursement alimony.

(Amended by 2021, 113:3, eff. 7/9/2021. Amended by 2021, 113:2, eff. 7/9/2021. Amended by 2021, 113:1, eff. 7/9/2021. Amended by 2018, 310:2, eff. 1/1/2019.)

1955, 262:4. 1979, 342:1. 2001, 222:3, eff. Sept. 9, 2001.

See 2018, 310, 6.

NH Stat. 458:19-a Term and Reimbursement Alimony (New Hampshire Statutes (2021 Edition))

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§ 458-C:1. Purpose

The purpose of this chapter is to establish a uniform system to be used in the determination of the amount of child support, to minimize the economic consequences to children, and to comply with applicable federal law by using specific guidelines based on the following principles:

I. Both parents shall share responsibility for economic support of the children.

II. The children in an obligor's initial family are entitled to a standard of living equal to that of the obligor's subsequent families.

III. The percentage of net income paid for child support should vary according to the number of children and according to income level.

(Amended by 2012, 248:2, eff. 7/1/2013.)

1988, 253:1, eff. April 30, 1988. 2005, 273:8, eff. Oct. 1, 2005.

NH Stat. 458-C:1 Purpose (New Hampshire Statutes (2021 Edition))

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§ 458-C:2. Definitions

In this chapter:

I. "Adjusted gross income" means gross income, less:

(a) Court-ordered or administratively ordered support actually paid to others, for adults or children.

(b) Fifty percent of actual self-employment tax paid.

(c) Mandatory, not discretionary, retirement contributions.

(d) Actual state income taxes paid.

(e) Amounts actually paid by the obligor for allowable child care expenses or the medical support obligation for the minor children to whom the child support order applies.

I-a. "Allowable child care expenses" means actual work-related child care expenses for the children to whom the order applies and includes necessary work-related education and training costs.

II. "Child support obligation" means the proportion of total support obligation which the obligor parent is ordered to pay in money to the obligee parent as child support.

III. "Court" means issuing authority, including the office of fair hearings, department of health and human services, having jurisdiction to issue a child support order.

IV. "Gross income" means all income from any source, whether earned or unearned, including, but not limited to, wages, salary, commissions, tips, annuities, social security benefits, trust income, lottery or



gambling winnings, interest, dividends, investment income, net rental income, self-employment income, alimony, business profits, pensions, bonuses, and payments from other government programs (except public assistance programs, including aid to families with dependent children, aid to the permanently and totally disabled, supplemental security income, food stamps, and general assistance received from a county or town), including, but not limited to, workers' compensation, veterans' benefits, unemployment benefits, and disability benefits; provided, however, that no income earned at an hourly rate for hours worked, on an occasional or seasonal basis, in excess of 40 hours in any week shall be considered as income for the purpose of determining gross income; and provided further that such hourly rate income is earned for actual overtime labor performed by an employee who earns wages at an hourly rate in a trade or industry which traditionally or commonly pays overtime wages, thus excluding professionals, business owners, business partners, self-employed individuals and others who may exercise sufficient control over their income so as to recharacterize payment to themselves to include overtime wages in addition to a salary. In addition, the following shall apply:

(a) The court, in its discretion, may consider as gross income the difference between the amount a parent is earning and the amount a parent has earned in cases where the parent voluntarily becomes unemployed or underemployed, unless the parent is physically or mentally incapacitated.

(b) The income of either parent's current spouse shall not be considered as gross income to the parent unless the parent resigns from or refuses employment or is voluntarily unemployed or underemployed, in which case the income of the spouse shall be imputed to the parent to the extent that the parent had earned income in his or her usual employment.

(c) The court, in its discretion, may order that child support based on one-time or irregular income be paid when the income is received, rather than be included in the weekly, bi-weekly, or monthly child support calculation. Such support shall be based on the applicable percentage of net income.

IV-a. "Medical support obligation" means the obligation of either or both parents to provide health care coverage for a dependent child, whether in the form of private health insurance or public health care, and/or to pay a monetary sum toward the cost of health care coverage provided by a public entity, parent, or other person.

V. "Minimum support order" means an order of support equal to \$50 per month, unless the court determines that a lesser amount is appropriate under the particular circumstances of the case.

VI. "Net income" means the parents' combined adjusted gross income less standard deductions published on an annual basis by the department of health and human services and based on federal Internal Revenue Service withholding table amounts for federal income tax, F.I.C.A., and Medicare, which an employer withholds from the monthly income of a single person who has claimed a withholding allowance for 2 people.

(a) Federal income tax;

(b) F.I.C.A.

VI-a. "Reasonable medical support obligation" means the amount established under RSA 458-C:3, V.

VII. "Obligor" means the parent responsible for the payment of child support under the terms of a child support order.

VIII. "Obligee" means the parent or person who receives the payment of child support under the terms of the child support order.

VIII-a. "Parental support obligation" means the proportional amount of the total support obligation allocated to each parent under RSA 458-C:3, II(b) and (c).

IX. "Percentage" means the numerical figure that is applied to net income to determine the amount of child support.

X. "Self-support reserve" means 115 percent of the federal poverty guideline for a single person living alone, as determined annually by the United States Department of Health and Human Services.

XI. "Total support obligation" means net income multiplied by the appropriate percentage derived from RSA 458-C:3.

(Amended by 2019, 287:12, eff. 7/19/2019. Amended by 2013, 81:2, eff. 6/19/2013. Amended by 2013, 81:1, eff. 6/19/2013.)

1988, 253:1. 1989, 406:1. 1990, 224:1, 2, 5. 1995, 310:181. 1998, 242:1-3. 2004, 77:1, eff. May 7, 2004. 2006, 189:1, eff. July 29, 2006. 2007, 227:3 to 5, eff. June 25, 2007. 2008, 245:1, eff. June 24, 2008. 2010, 26:1, eff. Jan. 1, 2011; 71:1, eff. Jan. 1, 2011; 166:4, eff. June 17, 2010...

NH Stat. 458-C:2 Definitions (New Hampshire Statutes (2021 Edition))

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§ 458-C:3. Child Support Formula

I.

(a) The child support guidelines shall be based on the following:

Percent of Combined Net Income Devoted to Child Support

Net income 1 Child 2 Children 3 Children 4 or more Children

\$15,000 or less 25.6 percent 35.5 percent 42.5 percent 45 percent

\$25,000 25 35 42 44.5

\$35,000 24 33.5 40.5 43

\$50,000 23 31.5 38 40.5

\$60,000 22 30.5 36.5 39

\$70,000 21.5 30 36 38.5

\$80,000 21 29 35 37.5

\$90,000 21 28.5 34.5 37

\$100,000 20 27.5 33 35.5

\$125,000 or more 19 26 31 33.5

(b) The department of health and human services shall calculate and publish a schedule of child support amounts using the table in subparagraph (a). The schedule shall provide child support amounts in \$1,000 increments of combined net income, with a directly proportional change in the percentage of combined net income devoted to child support based on income level and number of children. The department shall determine the fractional percentage between each income level by interpolating between the percentages within each column of the table under subparagraph (a). Nothing in this paragraph shall preclude the department from publishing child support guidelines in increments of less than \$1,000, based on the schedule and formula provided in this section.

## II.

(a) The total support obligation shall be determined by multiplying the parents' total net income, as defined in RSA 458-C:2, VI, by the appropriate percentage derived from this section.

(b) The total child support obligation shall be divided between the parents in proportion to their respective incomes as adjusted by this section, except when there are incurred by the obligee child care expenses or for the actual amount paid as the medical support obligation, for the minor children to whom the child support order applies.

(c) For those cases involving allowable child care expenses or medical support obligation expenses incurred by the obligee, the same methodology described in subparagraphs (a) and (b) shall be used, except that as part of the determination of each parent's share of the child support obligation, the obligee's allowable child care expenses or medical support obligation expenses shall be deducted from the adjusted gross income of the obligee.

(d) All child support obligations calculated pursuant to this chapter shall be rounded to the nearest whole dollar.

III. The number of children in the same household for which child support is paid is a determining factor in the percentage applied against net income.

IV. Self-support reserve and minimum child support obligation.

(a) If the obligor parent's gross income is less than the self-support reserve and the court has determined that the obligor is not voluntarily unemployed or underemployed, the court shall order the child support obligation in the amount of a minimum support order.

(b) If the obligor parent's gross income is greater than the self-support reserve but payment of the parental support obligation as calculated under this chapter would reduce the obligor parent's adjusted gross income below the self-support reserve, the presumptive child support obligation shall be the difference between the self-support reserve and the obligor parent's adjusted gross income, but in any event shall be no less than the amount of a minimum support order.

(c) [Repealed].

V. The court shall establish and order a reasonable medical support obligation for each parent. The presumptive amount of a reasonable medical support obligation shall be 4 percent of the individual parent's gross income, unless the court establishes and orders a different amount based on a written finding or a specific finding, made by the presiding officer on the record, that the presumptive amount would be unjust or inappropriate, using the criteria set forth in RSA 458-C:5.

(Amended by 2013, 81:3, eff. 6/19/2013. Amended by 2012, 248:4, eff. 7/1/2013. Amended by 2012, 248:3, eff. 7/1/2013.)

1988, 253:1. 1989, 406:2, 3. 1990, 224:3, 4. 1998, 242:4. 2002, 227:3. 2004, 169:3, eff. July 23, 2004. 2007, 227:6, eff. June 25, 2007. 2008, 245:2, eff. June 24, 2008. 2010, 166:3, 5, eff. June 17, 2010. NH Stat. 458-C:3 Child Support Formula (New Hampshire Statutes (2021 Edition))

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#### 458-C:4. Application of Guidelines

I. Subject to the provisions of RSA 458-C:5, guidelines provided under this chapter shall be applied in all child support cases, including temporary orders, and in any order modifying a support order.

II. There shall be a rebuttable presumption in any proceeding for the award of child support that the amount of the award which would result from the application of guidelines provided under this chapter is the correct amount of child support. A written finding or a specific finding by the presiding officer on the record that the application of the guidelines would be unjust or inappropriate in a particular case, as determined by using the criteria set forth in RSA 458-C:5, shall be sufficient to rebut the presumption in such case.

III. [Repealed.]

IV. When arrangements for child support are delineated in an agreement between the parties, and not made according to guidelines provided under this chapter, the presiding officer shall determine whether the application of the guidelines would be inappropriate or unjust in such particular case, using the criteria set forth in RSA 458-C:5, and in certifying the agreement shall enter a written finding or a specific finding on the record that the application of the guidelines would be inappropriate or unjust and state the facts supporting such finding.

1988, 253:1. 1989, 406:4, 5, eff. Aug. 4, 1989. 2006, 185:8, eff. May 26, 2006. NH Stat. 458-C:4 Application of Guidelines (New Hampshire Statutes (2021 Edition))

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#### § 490-D:2. Jurisdiction

Notwithstanding any law to the contrary and except for the limited need to allow an existing case to proceed with the same judge who had presided over it before the implementation of the judicial branch family division, following implementation of the division at a division site in accordance with RSA 490-D:5, jurisdiction over the following matters shall be exclusively exercised through the judicial branch family division as procedurally jurisdiction was previously exercised in the superior, district, and probate courts:

I. Petitions for divorce, nullity of marriage, alimony, custody of children, support, and to establish paternity.

II. Actions for support or custody for children of unwed parties.

III. Actions under RSA 169-B, relating to delinquent children except for concurrent jurisdiction with the district court to enter temporary detention orders under RSA 169-B:11, III and 169-B:12, IV(b).

IV. Actions under RSA 169-C, relating to abused and neglected children except for concurrent jurisdiction with the district court to enter orders under RSA 169-C:6, VI and RSA 169-C:6-a.

V. Actions under RSA 169-D, relating to children in need of services except for concurrent jurisdiction with the district court to enter orders under RSA 169-D:8, I, RSA 169-D:9-a, and RSA 169-D:10.

VI. Actions under RSA 173-B, relating to protection of persons from domestic violence except for concurrent jurisdiction with the district division to enter temporary protective orders under RSA 173-B:4.

VII. The adoption of children in abuse and neglect cases pursuant to RSA 169-C, termination of parental rights cases pursuant to RSA 170-C, and guardianships of the person of minors pursuant to paragraph VIII. Jurisdiction over private, agency, and international adoptions shall remain with the probate court.

VIII. The guardianship of the person of minors. In cases involving the guardianship of both the person of a minor and the estate of the same minor, jurisdiction shall remain with the probate court.

IX. The termination of parental rights.

X. The change of names of persons who apply therefor in matters relating to jurisdiction in paragraphs I-IX.

(Amended by 2013, 62:9, eff. 1/1/2014.)

2005, 177:14, eff. July 1, 2005.

NH Stat. 490-D:2 Jurisdiction (New Hampshire Statutes (2021 Edition))

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§ 491:15. Findings

The court or justice trying causes under RSA 491:13 and 491:14 shall, if either party requests it, give his decision in writing, stating the facts found and his rulings of law, which shall be filed and recorded.

1855, 1659:27. GS 189:5. 1870, 2:3. GL 208:5. PS 204:10. PL 316 :12. RL 370:13.

NH Stat. 491:15 Findings (New Hampshire Statutes (2021 Edition))

## **QUESTIONS PRESENTED FOR REVIEW**

1. Whether the trial court erred as a matter of law in interpreting RSA 458:16-a when it found that the statute precluded division of the husband's share of property owned by him and his parents. (Raised in Motion for Reconsideration)
2. Whether the trial court erred as a matter of law when it found that that the mother's gross monthly income was 52% of the father's yet awarded child support which deviated from the child support guidelines in his favor. (Raised in Motion for Reconsideration)
3. Whether the trial court erred as a matter of law when it denied wife's request for alimony without providing a basis as required by RSA 458:19-a, VI(b). (Raised in Motion for Reconsideration)
4. Whether the trial court erred as a matter of law when it failed to state sufficient findings to support its decisions as required by RSA 491:15, while declining to review wife's proposed findings and rulings. (Raised in Motion for Reconsideration)

### **STATEMENT OF THE CASE**

The parties were married on October 26, 2013. Husband filed a petition for divorce dated July 30, 2018, in the Hooksett Family Division. Husband alleged fault grounds as the basis for the divorce and alternatively alleged irreconcilable differences. Wife filed a Petition for Divorce dated July 20, 2018, in the Brentwood Family Division alleging irreconcilable differences. The cases were consolidated and heard in the Hooksett District Court.

A temporary hearing was held on January 4, 2019 and a final hearing was held over a series of five days in 2019 and in 2020. The trial court issued a final decree dated November 6, 2020. Both parties filed motions for reconsideration. By Order dated December 31, 2020, the trial court amended, clarified and corrected inconsistencies in its Final Order but otherwise denied the motions for reconsideration.

On January 29, 2021, Wife filed an appeal with this Court which was docketed as case number 2021-0032. On February 3, 2021, Husband filed an appeal with this Court which was docketed as case number 2021-0036. This Court consolidated the two appeals under case number 2021-0032.

### **STATEMENT OF FACTS**

There was significant evidence presented by both parties concerning their relationship and their differing perspectives and interpretations of events that occurred during their time together. What follows is a summation of the facts relevant to the issues in this appeal.

Transcript references are to the transcript of the temporary hearing and Volumes I through IV of the final hearing.

The parties met in 2003. (Tr. Vol I pg 130 ln 17). In June of 2004, Husband and his sister, Judith, purchased a home on Vinton Street, in Manchester, as joint tenants with rights of

survivorship. (Tr. Vol I, pg 130 ln 23). Wife moved in with Husband about three months after the purchase. (Tr. Vol I pg 130 ln 24) The home was a two-story cape. Tr. VI, pg 137 ln 25) Husband and Wife occupied the second floor and husband's sister occupied the first floor. Husband and Wife got engaged on April 30, 2011 (Tr. Vol III pg 364 ln1) and married on October 26, 2013. (Tr. Vol I pg 130 ln 13) Their only child, a daughter, was born on March 22, 2015. (Tr. Vol I pg 129 ln 22)

In October 2017, Husband and his sister sold the Vinton Street, Manchester real estate. (Tr. Vol I pg 130 ln 5) The sale generated a profit of approximately \$15,000.00. (Tr. Vol I pg 131 ln 8) Husband and his sister evenly divided that profit and Husband gave one-half of his share to Wife. (Tr. Vol I pg 131 ln 21)

After the sale of the Manchester real estate, Wife and daughter moved to the home of Wife's parents' in Hampstead, New Hampshire and Husband and his dog moved to his parents' home in Manchester. (Tr. Vol I pg 138 ln 25) Husband resided at his parents' home for several months after which he rented a home in Hooksett. At the time of the final hearing Husband had returned to live in his parents' home in Manchester. Wife resided with her parents until February 27, 2018 when she and daughter moved to Husband's home in Hooksett. (Tr. Vol III pg 382 ln 18) On July 1, 2018 Wife and daughter returned to live with her parents' home in Hampstead. (Tr. Vol III pg 383 ln 9) Husband remained in the Hooksett home until he moved back to his parent's home.

Both parties filed their respective petitions for divorce in July 2018. See copy of Wife's Petition for Divorce at page 10 of the Appendix to this brief and a copy of Husband's Petition for Divorce at page 3 of the Appendix.



By *ex-parte* Motion dated September 7, 2018, Husband requested parenting time with the parties' daughter and joint decision making. Following a hearing at which both parties and counsel were present, the trial court granted that Motion. See copy of *ex-parte* Motion at page 13 of Appendix and Order at page 19 of Appendix.

Following a temporary hearing held on January 4, 2019, the trial court entered an order regarding a parenting schedule. The trial court denied wife's request for temporary alimony finding that she worked around sixteen hours per week and finding that she can "work a full time schedule or closer to that." The trial court maintained the previously ordered parenting schedule with a slight modification and ordered Husband to pay child support of \$421.00 bi-weekly. See copy of Temporary Order at page 21 of Appendix.

Husband testified that in 2011 he had been looking for a property in which he and Wife would potentially live. (Tr. Vol I pg 146 n 16) In 2011 he found property in Dunbarton, NH. In July of 2011, Husband's parents remortgaged their home in Manchester and used a portion of the funds to purchase the Dunbarton real estate for \$105,000.00. (Tr. Vol I pg 19 ln 16) Husband's father testified that Husband found the property and that it was purchased with Husband's encouragement. (Tr. Vol I Pg 73 ln 9 and 10) Neither Husband nor Wife contributed towards the purchase price. (Tr. Vol I pg 155 ln 20. The property consisted of 12.9 acres and an uninhabitable house. (Tr. Vol I pg 105 ln 5) The plan was for Husband and Wife to be married at the property (Tr. Vol I pg 44 ln 4) and Husband would build a home for Husband and Wife with an in-law apartment for Husband's parents. (Tr. Vol I pg 21 ln 1) The deed for the Dunbarton property lists the Grantees as Guy Routhier, Frances Routhier (Husband's parents) and Matthew Routhier as joint tenants with rights of survivorship. (See copy of Warranty Deed at page 33 of Appendix) Husband's father claimed Matthew was added as a Grantee because he

and Frances wanted someone with knowledge and experience to see things through in the event that they could not. (Tr. Vol I pg 20 ln 19)

When he was asked how much his parents asked him to pay towards the property, Husband answered that they asked for nothing other than in return, to obtain financing, to build a usable structure and/or renovate the one that was there, to provide his parents a home for the remainder of their lives. (Tr. Vol I pg 156 ln 1) Wife testified that the plan was that, once Husband squared away his finances, he would secure a loan for the property and remove his parents from the deed so the property would be his and Wife's. (Tr. Vol IV pg 419 ln 15 and 16)

There was testimony about the value of the property, testimony concerning the work done on the property by Husband, Wife, and their parents and testimony concerning payments by both parties towards various expenses. There was also evidence of a lease with a neighboring horse farm with the rental payments to Husband as well as Husband's installation of solar panels, his retention of the solar tax credit and of the resulting payments for electricity generated and sold to the power company. Wife testified that Husband said the property was half hers, which statement was not denied by Husband. (Tr. Vol IV pg 412 ln 15) Wife's appraiser testified that as of July 19, 2019, the property consisting of a 12.9 acre single family lot and an uninhabitable house, had a value of \$145,000.00. (Tr. Vol I pg 112 ln 2) That evidence all became irrelevant when the trial court decided that it did not have jurisdiction to divide property with third-party ownership. Wife's position is that Husband's ownership interest in the Dunbarton property should be considered as marital property by the trial court in making its decision regarding division of marital assets.

There was significant testimony by both parties concerning the parenting plan and where the parties' child will attend school. Husband testified that "reality is very different between the two of us." (Tr. Vol I pg 288 ln 10)

A Guardian *ad Litem* was appointed. The GAL submitted a lengthy report and also testified at the final hearing. The GAL expressed the opinion that she had no concerns about either party's ability to parent, but had concerns about their ability to co-parent. She recommended a 50/50 split in parenting time and recommended therapy for the parties and for the child.

Wife has been a certified pharmacy technician for twenty-years and was employed at Catholic Medical Center (Tr. Vol III pg 375 ln 2) where she works twenty-five to thirty hours per week. (Tr. Vol IV pg 490 ln 5) During the marriage she worked three-days per week. (Temp Hrg Pg 4 ln 15)

Due to serious complications surrounding the birth of their child, Wife spent six days in the hospital after the delivery. (Tr. Vol III pg 372 ln 21) She returned to work on July 5, 2015, two days a week at first then three days. (Tr. Vol IV pg 425 ln 22) At the beginning of 2016 she went back to thirty-two hours per week for a few months. (Tr. Vol IV pg 426 ln 1)

She testified that there are no full-time positions available at this time for the work she does. (Tr. Vol IV pg 491 ln 6) She is paid at the rate of \$22.22 per hour plus \$2.50 per hour on weekends. (Tr. Vol IV pg 489 ln 8) She also testified that if she worked at a retail pharmacy she would be paid \$12.00 per hour. (Tr. Vol IV pg 555 ln 2). She asked to be awarded alimony until April of 2023 and for health insurance. See copy of Wife's financial affidavit dated September 4, 2019 at page 35 of the Appendix.

Husband has a degree from UNH in landscape architecture (Tr. Vol I pg 137 ln 17). He also has training in septic system design and permitting and septic system inspection and evaluation. (Tr. Vol I pg 137 ln 20) He is employed full-time as a project manager and landscape architect in Manchester, NH. (Tr. Vol I pg 137 ln 25) Husband's normal rate of pay is \$34.00 per hour or \$5,440.00 gross per month. (Tr. Vol I pg 173 ln 20) Although he acknowledged that he earns more than Wife, (Tr. Vol I pg 213 ln 13) he does not believe that he should pay alimony (Tr. Vol I pg 215 ln 6). See copy of Husband's financial affidavit dated September 10, 2019 at page 42 of Appendix.

Both parties submitted written requests for findings of fact and rulings of law.

In its Final Decree and Order, the trial court found this to be a long term marriage and granted Husband a divorce based on irreconcilable differences. The trial court entered an order with a specific, shared parenting schedule and ordered that the parties' daughter would attend school in Hampstead. The trial court declined to find that Wife is voluntarily underemployed and ordered that Husband pay some child support based on the disparity of income. The child support guidelines worksheet shows that based on the disparity in income of the parties, under the NH Child Support Guideline formula, Husband should pay support of \$204.00 per week. Despite that, the trial court ordered Husband to pay child support of \$200.00 bi-weekly, without explanation of its order.

The trial court further found that, even if Wife were to work forty hours per week, at her current hourly rate, there would remain a disparity in income of almost \$2,000.00 per month between the parties. Despite that finding, the court denied Wife's request for alimony, without explanation, but ordered Husband to provide health insurance for Wife for a period of three years.

The trial court entered orders regarding life insurance, division of personal property, retirement accounts, bank accounts business interests and debts.

With regard to the Dunbarton property, the trial court found that it did not have jurisdiction to determine ownership interest in property if there is a third-party claim. The trial court declined to consider Husband's ownership interest as part of the marital estate. The trial court did, however, award Wife reimbursement from Husband of the \$2,300.00 that she paid to clear trees on the property.

Both parties submitted requests for findings of fact and rulings of law. See copy of Wife's requests for findings and rulings at page 46 of the Appendix. The trial court acted on the requests submitted by Husband. The trial court found that Wife's requests were excessive, did not rule on them individually and ordered "findings and rulings consistent with this Order." See copy of Final Decree and Order, Parenting Plan, USO and Child Support Guidelines Worksheet attached at page 44 of this Brief.

Both parties filed motions for reconsideration. See copy of Wife's Motion For Reconsideration at page 60 of the Appendix (the Husband objected and a copy of same is at page 70 of the Appendix) and copy of Husband's Motion to Reconsider and Clarify/Correct the Record at page 74 of the Appendix. The Wife's objection to the Husband's Motion for Reconsideration is at page 79 of the Appendix. On reconsideration the trial court corrected the address of Husband and corrected an inconsistency between the Parenting Plan and the Narrative Order with regard to where the parties' child will attend school. The trial court also adjusted the holiday schedule and exchange times in the Parenting Plan. The trial court declined to review Wife's requests for findings and rulings stating that they are voluminous and denied all other requests. See copy of Order at page 76 of this Brief.

These appeals followed.

### SUMMARY OF ARGUMENT

The trial court erred as a matter of law by not including Husband's interest in the Dunbarton property in the marital estate and awarding Wife a share of the value of that interest.

The trial court committed an unsustainable exercise of discretion when it found that Wife's income was about one-half of Husband's yet awarded child support which deviated from the guidelines in his favor, without adequate explanation.

The trial court committed an unsustainable exercise of discretion by denying alimony to Wife, without adequate explanation, although the evidence shows that she needs alimony and that Husband has the ability to pay it.

Under the facts and circumstances of this case, the trial court committed an unsustainable exercise of discretion by ruling on Husband's requests for findings and rulings but refusing to rule on Wife's requests stating that they were excessive while at the same time acknowledging that there is no rule that limits the number of requests that a party may submit.

### ARGUMENT

**Question 1: 1. Whether the trial court erred as a matter of law in interpreting RSA 458:16-a when it found that the statute precluded division of the husband's share of property owned by him and his parents.**

It is undisputed that Husband owns an interest in an uninhabitable single-family home with 12.9 acres of land in Dunbarton, New Hampshire. The deed to that property lists Husband and his parents as the grantees, as joint tenants with rights of survivorship. The deed does not specify the grantees' interests as specifically fractional therefore they presumably own equal shares, i.e. one-third each. The property was acquired prior to the marriage of Husband and Wife, but after they had been cohabiting for almost seven years and approximately three months

after they had become engaged. The property had been found by husband and purchased with his encouragement. Husband's parents remortgaged their home in Manchester to purchase the Dunbarton property. It is undisputed that the plan was for Husband and Wife to have their wedding at the property and to either rehabilitate the home or build a new one either of which would include an in-law apartment for Husband's parents where they could live for the remainder of their lives. The parties, Husband's father and Wife's stepfather all worked on the property over the next several years, although as of 2019, the home was still uninhabitable.

Wife's appraiser testified that the property had a value of \$145,000.00. Husband did not submit an as-is appraisal of the property and objected to Wife's appraisal claiming that it was unauthorized. Assuming Wife's appraisal to be correct, Husband's interest in the property would have a value of \$48,333.33. Since this was a divorce based on irreconcilable differences, an equal division of that asset would be presumed to be equitable, therefore Wife's share would be \$24,166.66.

The Husband's interest in the Dunbarton real estate should be considered as part of the marital estate. RSA 458:16-a, I makes no distinction between property brought to the marriage by the parties and that acquired during the marriage, and does not exclude property given to one spouse during the course of the marriage. Regardless of the source, all property owned by each spouse at the time of the divorce is to be included in the marital estate. IMO Sarvela and Sarvela, 154 N.H. 426, 43 (2006) citing IMO Harvey & Harvey, 153 N.H. 425, 438 (2006)

The trial court found that under RSA 458:16-a, the Family Court does not have jurisdiction to determine ownership interest in property if there is a third-party claim. The trial court cited RSA 490-D, IMO Mallett and Mallett, 163 N.H. 202 (2012) and IMO Muller and

Muller, 164 N.H. 512 (2013) in support of its position that it does not have jurisdiction to award Wife the value of some portion of Husband's interest in the Dunbarton property.

Appellant does not dispute that the jurisdiction of the Family Court is limited by statute. RSA 490-D grants the family division jurisdiction over petitions for divorce, among other powers. The Mallett case cited by the court dealt with an unwed couple. In that case, this Court held that the family division had jurisdiction for purposes of child-related matters, but not property division. Mallett, at 208. The Mallett case is distinguished from the case at bar as, in Mallett the controlling fact was that the parties were never married, however, in this case the parties are a married couple.

The trial court also cites IMO Muller and Muller, 164 N.H. 512 (2013) in support of its position. Muller involves a married couple who owned real estate subject to a second mortgage to the husband's parents. Based on the evidence presented regarding the promissory note and second mortgage, the trial court found that the note and mortgage did not "evidence a valid debt". The family court ordered the property to be sold and after payment of the first mortgage, taxes and closing costs, the net proceeds to be equally divided, effectively invalidating the second mortgage.

On appeal this Court held that the family court had no jurisdiction to determine the validity of a third party's interest in the parties' marital property. The trial court's order of sale was vacated and that issue remanded to the trial court.

The Muller case is distinguishable from the case at bar as, in this case, Wife is not seeking to invalidate the ownership interests of Husband's parents. Wife recognizes that Husband and his parents each have a one-third undivided interest in the Dunbarton real estate. Wife only seeks payment for one-half of Husband's one-third interest.



The trial court committed an error of law in finding that it does not have jurisdiction to award Wife any value of Husband's interest in the Dunbarton real estate. Wife's case was prejudiced by that error in that she was deprived of the potential award of a portion of Husband's interest in the Dunbarton real estate.

The trial court's Order regarding the Dunbarton real estate must be vacated and the matter remanded for a determination of the value of Husband's interest in the Dunbarton real estate and a determination of an award of a portion of that value to Wife.

**Question 2: Whether the trial court erred as a matter of law when it found that that the mother's gross monthly income was 52% of the father's, yet awarded child support which deviated from the child support guidelines in his favor?**

RSA chapter 458-C codifies the child support guidelines and are intended to "establish a uniform system to determine the amount of child support awards." IMO Laura & Scott, 161 N.H. 333, 335 (2010). "The purpose of RSA 458-C is not only to ensure uniformity in determining the amount of child support, but also to ensure that both the custodial and non-custodial parents share in the support responsibility for their children, according to the relative percentage of each parent's income. *Id.* There is a rebuttable presumption that a child support award calculated under the guidelines is the correct amount of child support. *Id.* This presumption may be overcome, and the trial court may deviate from the guidelines, when a party shows by a preponderance of the evidence that the application of the guidelines would be "unjust or inappropriate," because of special circumstances. RSA 458-C:5,I; IMO Laura & Scott, 161 N.H. at 335-336.

This Court has held that if the trial court deviates from the guidelines, it must "make a written finding as to why a special circumstance pursuant to RSA 458-C:5 justifies an adjustment from the child support guidelines to avoid an unjust or inappropriate result." IMO Forcier &

Mueller, 152 N.H. 463,465 (2005); see RSA 458-C:4,II. “Special circumstances” includes only circumstances that are “economic in nature and relate to the impact of a parent’s financial condition upon his or her ability to meet a child’s needs.” IMO Carr & Edmunds, 156 N.H. 498, 504 (2007). The trial court must consider any special circumstances “in light of the best interests of the child”. RSA 458-C:5. While the parenting schedule is a special circumstance, equal or approximately equal parenting residential responsibilities in and of itself shall not eliminate the need for child support and shall not by itself constitute ground for adjustment. RSA 458-C:5, I (h) (1).

In the case at bar, there is a significant disparity in income. Wife’s monthly gross income is \$2,917. See Wife’s financial affidavit at page 35 of the Appendix. Husband’s monthly gross income is \$5,615.00. See Husband’s financial affidavit at page 42 of Appendix. See also Child Support Guidelines Worksheet at page 74 of this Brief.

Despite the significant disparity in income, the trial court did not award full guidelines support without explanation except to indicate that the parties have a sharing of the parenting schedule. The trial court must provide an explanation for the deviation from the guidelines support. Indicating the fact that the parties will be sharing parenting and expenses for their child is insufficient. See IMO Silva & Silva, 171 N.H. 1, 3 (2018)

The trial court committed an unsustainable exercise of discretion by deviating from the child support guidelines without providing a proper explanation for the deviation. Wife’s case was prejudiced by this error in that she is awarded less than full guidelines child support without sufficient justification.

**Question 3: Whether the trial court erred as a matter of law when it denied wife’s request for alimony without providing a basis as required by RSA 458:19-a, VI(b)?**

During much of the marriage, Wife worked three days a week as a pharmacy technician at Catholic Medical Center. She was on maternity leave for several months after the birth of the parties' child in 2015 and Wife's recovery from serious complications during the birth. She returned to work for two days a week for a while, then three days and then back to two. At the temporary hearing, the trial court denied Wife's request for temporary alimony stating that she only works around 16 hours per week. The court found that she can work a full-time schedule or closer to that. The court also noted in the Temporary Order that Husband would be paying guideline support, the majority of the child's uninsured expenses, the majority of the GAL fees and carry life insurance.

At the time of the final hearing, Wife was working 25 to 30 hours per week and testified that there was no full-time position available for the work that she does. Wife testified that she could work in a retail pharmacy but would earn about half the amount that she is currently paid. The court specifically found that Wife was not voluntarily unemployed. The court further found that, even if Wife worked a full 40-hour week at her current employment, there would remain a disparity in income of almost \$2,000.00 per month between the parties. Despite those findings, the trial court both denied an award of alimony and reduced Husband's child support obligation by fifty-percent.

The award of alimony is governed by RSA 458:19-a. RSA 458:19-a VI (b) (1) requires the court to make findings supporting the court's decision to order or deny alimony.

Under New Hampshire law, the primary purpose of alimony is rehabilitative and it is designed to encourage the recipient to establish an independent source of income. In re Dube, 163 N.H. 575, 581 (2012) A trial court's determination of alimony is based primarily on the parties' income and need. IMO Cohen and Richards, 172 N.H. 78, 83 (2019)

The trial court's findings in the instant case, do not support the denial of alimony to Wife. At the time of the final hearing, Wife was working more hours than she was at the time of the temporary hearing. Wife was working as many hours as were available from her employer for the type of work that she does. If Wife were to change jobs and work at a retail pharmacy rather than in the hospital, she would earn almost one-half as much as she is presently earning. The court specifically found that Wife is not voluntarily underemployed. Despite those facts, the court denied alimony for the Wife and reduced the child support by half. The trial court's order is punitive rather than rehabilitative. The findings of this case fail to support the denial of alimony.

The trial court's denial of alimony was an unsustainable exercise of discretion and unreasonable and untenable to the prejudice of Wife's case.

**Question 4: Whether the trial court erred as a matter of law when it failed to state sufficient findings to support its decisions as required by RSA 491:15, while declining to review wife's proposed findings and rulings?**

The law is well settled in New Hampshire that if the parties to a divorce case make specific requests for findings of fact and rulings of law, the trial court should state its reasons for and make specific findings and rulings supporting its decision. IMO Costa & Costa, 156 N.H. 323, 333 (2007) citing Magrauth v. Magrauth, 136 N.H. 757 (1993). See also IMO Sarvela and Sarvela, 154 N.H. 426, 431 (2006) The purpose of having a written statement of the facts found and the law applied by the trial court is to allow the Supreme Court an opportunity for adequate review. Howard v. Howard, 129 N.H. 657, 659 (1987); Magrauth, at 760.

The case at bar is a divorce case where the final hearing took place over a series of five days between September 2019 and September 2020. There was a significant amount of testimony and numerous exhibits concerning issues of fault, ability to parent and co-parent,

decision making, parenting schedule, where the child would attend school, real and personal property division, child support, alimony and lengthy testimony by the Guardian *ad Litem*. Both parties submitted written requests for findings and rulings. The trial court acted on Husband's requests but denied to act on Wife's requests, stating that they were excessive. In its Order on reconsideration, the trial court again refused to act on Wife's requests, stating that they are "voluminous" while at the same time, acknowledging that there is no rule limiting the number of requests. The trial court cited two cases to support its refusal to act on Wife's requests, Harrington v. Town of Warner, 152 N.H. 74 (2005) and Geiss v. Bourassa, 140 N.H. 629 (1996). Significantly, neither of the cited cases is a divorce case and both predate the decision in Sarvela, *Id.* Additionally, in Geiss v. Bourassa, this Court remanded the case to the Superior Court for specific rulings on certain of the Plaintiffs' claims.

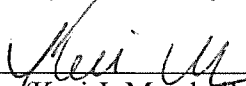
In the instant case, Wife asserts that the trial court committed unsustainable exercises of discretion in its Orders on child support and alimony. The Supreme Court cannot properly review those Orders without the specific findings and rulings on which the trial court based its Orders. The lack of specific findings and rulings on those issues was unreasonable and/or untenable and prejudices the Wife's case. This matter must be remanded to the family division for entry of specific orders on Wife's requests for findings and rulings.

### CONCLUSION

For all of the foregoing reasons, this Orders of the trial court regarding property division, child support, alimony and requests for findings and rulings by Wife must be stricken and the matter remanded for further consideration by the trial court.

Respectfully submitted,  
Kelly Routhier, Respondent/Appellant  
by her attorney


Dated: July 29, 2021

  
\_\_\_\_\_  
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**REQUEST FOR ORAL ARGUMENT**

The Appellant, Kelly Routhier, respectfully requests to be heard on oral argument on this matter. It is estimated that the time required for the Appellants' oral argument will be fifteen minutes.

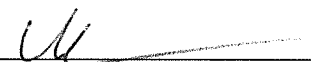
Dated: July 29, 2021

  
\_\_\_\_\_  
Keri J. Marshall, Esquire

**CERTIFICATION**

I hereby certify that the foregoing brief of Petitioner contains 4875 words.


Dated: July 29, 2021

  
\_\_\_\_\_  
Keri J. Marshall, Esquire

**CERTIFICATE OF SERVICE**

I, Keri J. Marshall, hereby certify that pursuant to Supreme Court Rule 16, a copy of the foregoing Brief of Kelly Routhier was served upon Matthew Routhier, pro se, and Deborah Mulcrone, Esq., GAL and Kevin Collimore, Esq., through the Court's Electronic Filing System.

Dated: July 29, 2021

  
\_\_\_\_\_  
Keri J. Marshall, Esquire

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

6th Circuit - Family Division - Hooksett  
101 Merrimack Street  
Hooksett NH 03106

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

**NOTICE OF DECISION**

**KERI J. MARSHALL, ESQ  
MARSHALL LAW OFFICE  
47 DEPOT ROAD  
EAST KINGSTON NH 03827-2002**

Case Name: **In the Matter of Matthew Routhier and Kelly Routhier**  
Case Number: **647-2018-DM-00111**

Enclosed please find a copy of the Court's Order dated November 10, 2020 relative to:

**Final Decree and Order  
Parenting Plan  
Uniform Support Order  
Child Support Guidelines Worksheet**

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.

It will cost \$40.00 for a certified copy of your decree.

This matter will become final on 12/11/2020 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.

November 10, 2020

Nancy E. Ringland  
Clerk of Court

(6471012)

C: Deborah Mulcrone; Patricia M. LaFrance, ESQ

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

6th Circuit - Family Division - Hooksett  
101 Merrimack Street  
Hooksett NH 03106

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

NOTICE REGARDING COMPLETION OF CASE

KERI J. MARSHALL, ESQ  
MARSHALL LAW OFFICE  
47 DEPOT ROAD  
EAST KINGSTON NH 03827-2002

Case Name: In the Matter of Matthew Routhier and Kelly Routhier  
Case Number: 647-2018-DM-00111

Before your case can be completed, the following documents must be on file with this office. These documents may be printed from the court's website or picked up at the Family Division.

- Petitioner's Financial Affidavit
- Respondent's Financial Affidavit
- Child Support Guideline Worksheet
- Uniform Support Order
- Petitioner's Certificate of Attendance at Child Impact Program (CIP)
- Respondent's Certificate of Attendance at Child Impact Program (CIP)
- Typewritten/Word Processed Certificate of Divorce (Vital Statistics Report)
- Affidavit of Non-Cohabitation
- Affidavit of Military Service
- Affidavit of Impossibility
- Final Parenting Plan
- Final Decree
- Other \_\_\_\_\_

November 10, 2020

(6471012)

C: Patricia M. LaFrance, ESQ

  
\_\_\_\_\_  
Nancy E. Ringland, Clerk of Court



THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

Merrimack County

6<sup>th</sup> Circuit – Family Division -  
Hooksett

**MATTHEW ROUTHIER and KELLY ROUTHIER**

**Docket # 647-2018-DM-00111**

**FINAL DECREE and ORDER**

The parties and counsel appeared for a final hearing in the above captioned divorce over the course of several days<sup>1</sup>. The GAL appeared for part of the final hearing and testified regarding the best interest of the parties' daughter in respect to parenting rights and responsibilities. Matthew presented two witnesses as well as his own testimony<sup>2</sup>: his father Guy Routhier and his sister Ann Crooker. Kelly presented one additional witness beside her testimony: real estate appraiser Louis Manias. After a review of the credible evidence, the court finds and rules as follows in regard to the items necessary for this Final Decree and Order.

**Brief Background:**

The parties met in 2003 and began living together in October 2004. Matthew purchased a property on Vinton Street in Manchester with his sister Judith earlier in 2004<sup>3</sup> and the parties occupied that property before and after their marriage. After moving in together the parties kept their finances separate; each paying certain items. The Vinton Street property was sold in 2018 with Matthew, Kelly and Judith splitting the profits. Matthew and Kelly split one-half and Judith received her half.

The parties married in October 2013 in Sanbornton, NH.<sup>4</sup> Their daughter Ava was born in March 2015. Kelly experienced serious complications after Ava's birth and was transferred to the ICU for 48 hours. She remained in the hospital for about a week after Ava's delivery. When Ava was about 5 weeks old she was acting fussy and not eating properly so the parties sought medical advice. After two visits to the doctor it was discovered Ava suffered from a heart issue. Luckily at this time Ava is doing very well.

**Type of Case:**

This is a divorce case. The 6<sup>th</sup> Circuit Court-Family Division-Hooksett received Matthew's Petition for Divorce on July 31, 2018 and it was entered in August 2018<sup>5</sup>. The court finds this to be a long term

<sup>1</sup> The days were conducted in person at the courthouse on 9/11/2019, 9/17/2019, 9/25/2019, 9/23/2020 and 9/29/2020. The continuation of the hearing was affected by the COVID restrictions in place.

<sup>2</sup> Matthew's testimony was bi-furcated to accommodate testimony from the GAL.

<sup>3</sup> The deed to Vinton Street noted Matthew and Judith held the property as joint tenants with right of survivorship.

<sup>4</sup> See Petition for Divorce at index #1.

<sup>5</sup> The Petition was entered in August

marriage. As such an approximately equal division of the marital estate is deemed equitable barring any special circumstances.<sup>6</sup> Not only had the parties been married almost five years prior to the filing of the Petition(which the court determines to be long term) but the court also considers the extended amount of time the parties lived together prior to the actual marriage. While the court recognizes the parties kept separate accounts for their finances, they shared expenses of their life together, lived together as a married couple would, planned for their future together and invested time, energy and funds into the acquisition of assets. The court finds consideration of the length of pre-marital cohabitation to be relevant to the division of the limited assets in the divorce under the applicable statute.<sup>7</sup>

Matthew alleged fault grounds in his Petition for Divorce: treatment by Kelly as to seriously injure his health or reason.<sup>8</sup> The court does not find evidence sufficient to sustain fault as the grounds for the divorce. Kelly received actual notice of the Petition for Divorce on August 21, 2018 when she picked up the service packet at the courthouse.<sup>9</sup> Before Matthew's divorce Petition was entered, Kelly filed a Petition for Divorce in the 10<sup>th</sup> Circuit Court-Family Division in Brentwood on August 10, 2018 which was entered on August 13, 2018.<sup>10</sup> Kelly's case was transferred to Hooksett and consolidated with the current case. In her Petition, Kelly reserved alleging fault grounds and asked for a divorce based on irreconcilable differences.

Based on the evidence a decree of divorce is granted to Matthew based on irreconcilable differences that have caused the irremediable breakdown of the marriage.

#### **Parenting Plan:**

As noted above Ava was born in March 2015. Upon her release from the hospital she lived with her parents at the Vinton Street home until the home was sold in 2018. After the Vinton Street home sold the parties physically separated: Matthew moved into his parents' home on Gray Street in Manchester while Ava and Kelly moved in with the maternal grandmother and step-grandfather in Hampstead. Matthew was invited to live with his family in Hampstead but he would not be able to bring his dog as Kelly's mother Lorrie is highly allergic. Matthew opted to live with his parents and the dogs until the family could be reunited. Matthew obtained a residence in Hooksett so Kelly and Ava could live with him and they joined him but soon thereafter Kelly moved out and the parties separated for good. Kelly returned to her family in Hampstead and Matthew returned to his family in Manchester. They each then filed for divorce.

In September 2018 Matthew filed an *Ex-Parte* Motion<sup>11</sup> seeking orders regarding Ava. Matthew alleged Kelly suffered mental instability, she removed Ava from the home "against his wishes", he had been prevented by Lorrie from contacting Ava and she limited his physical contact with his daughter, Ava exhibited concerning behavior during his time with her and he believed Ava was being emotionally harmed by the situation. The court issued an *Ex-Parte* Order granting Matthew parenting time on a set schedule until a hearing could be held.<sup>12</sup> Kelly filed an Objection<sup>13</sup> to the Motion. After a hearing on the

<sup>6</sup> See NH RSA 458:16-A II

<sup>7</sup> See NH RSA 458:16-a and see Munson and Beal, 169 N.H. 274 (2016).

<sup>8</sup> See NH RSA 458: 7 V

<sup>9</sup> Index #6

<sup>10</sup> See docket #618-2018-DM-338

<sup>11</sup> Index #12

<sup>12</sup> Index #13

<sup>13</sup> Index #19

*Ex-Parte* Motion the court instituted a parenting schedule expanding Matthew's time from the original *Ex-Parte* Order. Ava would remain primarily with Kelly but have time with Matthew on a set schedule.

In respect to a final parenting schedule, Matthew proposes<sup>14</sup> approximately equal shared parenting of Ava on a two week rotating schedule: during week one Ava would be with him from Sunday to Wednesday, then with Kelly from Wednesday to Friday, then with him Friday to Monday. During week two Ava would be with Kelly from Monday to Wednesday, with him from Wednesday to Friday and then with Kelly from Friday to Sunday. On this schedule Matthew would be granted a Sunday overnight that Kelly would not enjoy. Matthew believes Kelly's family will exclude him from Ava's life or at the very least minimize his relationship with her to the extent that he would have no role other than to see her every other weekend. To support his fear around alienation he testified as to Lorrie's increasing importance in decisions for Ava and being a primary contact when he should be, access to Ava's records by Kelly's aunt<sup>15</sup>, Kelly's failure to advise him of Ava's appointments and her interference with his calls with Ava. He believes he was and is as engaged with Ava when she is with him as Kelly is and he is equally capable of raising their daughter. He testified that after Ava's delivery he tried to be home with Ava and Kelly after work but would occasionally have to attend Board meetings for the three organizations to which he belonged. He also testified he took an extended period of time off when Ava had her heart issue diagnosed and if he could not be home he would be in constant contact with Kelly to check on them during the day.

Kelly proposes a schedule where Ava would live primarily with her and see Matthew on Wednesday evenings (expanded to overnights in the summer) and every other Friday to Sunday. She disputes Matthew's engagement with Ava starting with Ava coming home from the hospital after birth. Kelly testified Matthew did not spend much time with her and Ava after they came home from the hospital despite the fact Kelly was still suffering the effects of surgery after Ava's birth. She indicated Matthew worked outside the home and leaving early in the morning and he did not return most nights until after Ava was in bed (due to his visiting his parents after work before coming home). Kelly stated Matthew also attended meetings and social engagements with friends during the week and spent most weekends with his parents taking Ava only occasionally.

The GAL filed an extensive report<sup>16</sup> after a detailed investigation and testified during the trial. She recommends an essentially shared schedule during the week and alternating weekends. She notes the difficulties each parent has with the other and her concerns about a shared schedule are well documented. She also notes the concerns regarding co-parenting and decision-making but ultimately opines decision-making and the parenting schedule should be shared.

Decision-making is always best and less problematic when the parents engage in cooperative, respectful communication on the issues to be addressed. This does not apply to these parents: their dislike for each other is well documented by the case file and their testimony of the various allegations they leveled against each other. Unfortunately there is insufficient evidence upon which the court could justify awarding one parent decision-making authority over the other parent. Therefore the court will try to craft an Order which allows the parents the opportunity to communicate effectively on issues involving Ava. The court will do so by requiring the parents to utilize a program such as Our Family Wizard to document scheduled appointments and communication between the parties. The program will be paid

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<sup>4</sup> See Proposed Parenting Plan at index #103

<sup>15</sup> See exhibit #29

<sup>16</sup> See index #99

for by Matthew (due to the disparity in income) and the program must include monitoring for improper or inappropriate language. The parents must note any appointments for Ava immediately upon the scheduling of same which will allow access by the other parent to such information. In any emergent situation the parents can text each other regarding Ava.

For any medical, dental, counseling appointments, school or other programs in which Ava will participate each parent must be listed as a contact with identifying information. Third parties should only be used as a last resort if neither parent can be contacted. If they wish each parent can contact the providers and request separate notification on events, appointments, etc so they are not dependent on the other parent. That being said the court is requiring the use of a scheduling program to document appointments, when made, by whom and to allow the other parent notice for participation.

**School attendance:** Kelly advocated for Ava to attend the Hampstead Schools as they are smaller, the teacher to student ratio is better, the physical facilities are more up to date and the schools are community based. She does not like the Manchester Schools due to their age and size and she does not believe Ava's best interests are served by attending that school district. Kelly testified she advised Matthew she wanted to enroll Ava in kindergarten and did so when she received no response from him. She indicated Ava was "heartbroken" because her friends in the neighborhood were going and she could not.

Matthew advocated for Ava to attend the Montessori school in Manchester. He testified the school is private and engages in a different model of learning than the public schools. He stated Kelly didn't like the school and questioned the curriculum. She testified the school is not "accredited" and when they visited the environment was chaotic. She also testified she and Matthew had a conversation about schools during the marriage and Matthew indicated small town schools had advantages over Manchester and they specifically targeted the Dunbarton area<sup>17</sup>, in part, based on schools.

The court finds, based on Kelly's decision to remain in the Hampstead area as her town of residence that Ava will attend that school district. Matthew currently lives with his parents and it is unclear how long that arrangement will last and where he will go if he decides to secure a residence on his own after the divorce; he may relocate to Dunbarton if that property becomes habitable. While he advocated for Ava attending private elementary school in Manchester, the school only goes to a certain level and it is unclear if Ava would attend with friends as she would if she attends in Hampstead. The court finds the smaller class size, teacher to student ratio and the consistency of friends and education tilts in favor of Hampstead. Kelly shall be allowed to enroll Ava in kindergarten in Hampstead. Thereafter Ava can attend schools serving the Hampstead town of residence.

**Parenting schedule:** In respect to the parenting schedule itself, the court must consider certain factors in reaching the final schedule. The factors and findings are as follows:

<b>Factor under 461-A:6</b>	<b>Dad</b>	<b>Mom</b>	<b>Court finds:</b>
(a) The relationship of the child with each parent and the ability of each parent to provide the child with nurture, love, affection, and guidance.	√	√	The court finds each parent equally capable in these areas.

<sup>17</sup> Where family property is located.

(b) The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.	√	√	The court finds each parent equally capable in regard to their ability to meet Ava's necessary needs.
(c) The child's developmental needs and the ability of each parent to meet them, both in the present and in the future.	√	√	Ava is five years old presently. The court finds each parent equally capable of meeting her developmental needs now and in the future.
(d) The quality of the child's adjustment to the child's school and community and the potential effect of any change.	√	√	Ava will be starting kindergarten soon in the community she now shares with Kelly and her extended family. She will remain in this area except for the times she is with her dad.
(e) The ability and disposition of each parent to foster a positive relationship and frequent and continuing physical, written, and telephonic contact with the other parent, including whether contact is likely to result in harm to the child or to a parent.	√	√	Each parent has concerns about Ava when in the other parent's care. Each parent will be allowed telephone/FaceTime (or similar program) contact with Ava during the other parent's time without interference, interruption or distraction. This time should be spent with Ava and not to communicate between the parents.
(f) The support of each parent for the child's contact with the other parent as shown by allowing and promoting such contact, including whether contact is likely to result in harm to the child or to a parent.			Each parent has shortcomings in this area: Kelly twice called the GAL for a welfare check on Ava seemingly without just cause. Matthew has engaged video recordings and a Private Investigator to track Kelly and document the exchanges.
(g) The support of each parent for the child's relationship with the other parent, including whether contact is likely to result in harm to the child or to a parent.	√	√	Each parent seems to understand the importance of the other parent in Ava's life but their actions in respect to each other are not entirely supportive.
(h) The relationship of the child with any other person who may significantly affect the child.	√	√	The maternal and paternal grandparents and extended family are very important to Ava and her stability and development.
(i) The ability of the parents to communicate, cooperate with each other, and make joint decisions concerning the children, including whether contact is likely to result in harm to the child or to a parent.			Each parent is lacking in this area as noted above. The court is ordering a third party communication program to try to eliminate some direct contact which tends to lead to conflict
(j) Any evidence of abuse, as defined in RSA173-B:1, I or RSA169-C:3, II, and the impact of the abuse on the child and on the relationship between the child and the abusing parent.			N/A
(k) If a parent is incarcerated, the reason for and the length of the incarceration, and any unique issues that arise as a result of incarceration.			N/A
(l) Any other additional factors the court deems relevant.			See narrative order

The court finds an approximately shared schedule to be in Ava's best interest at this time. The court finds each parent equally important to Ava, her stability, growth and development. The court does not find sufficient evidence to support that one parent should have substantially more time with Ava than the other despite the allegations raised at the hearing and during the course of this case. The problem is not the parents with Ava, the problem is the parents with each other.

SEE PARENTING PLAN

**Child Support:**

The court ordered an essentially shared schedule for parenting. Under the terms of the relevant statute, the court can consider the parenting schedule in determining the appropriate amount of child support and deviating from the guideline amount.<sup>18</sup> The parenting schedule alone does not justify a deviation however it is a factor.<sup>19</sup> The court can also consider the disparity in the parents' income.<sup>20</sup> Such consideration leads to a discussion of whether Kelly is voluntarily underemployed as raised by Matthew.

Matthew argued Kelly can and should work more hours either at her current job or find another position that would give her more hours. He estimated she works about 24 hours per week and there is no reason she cannot work more especially if he has shared time with Ava.

Kelly works in the pharmacy at Catholic Medical Center in Manchester, NH. According to her most recent financial affidavit<sup>21</sup> she earns a base wage of just under \$2700 per month<sup>22</sup>; she gets a shift differential added if she works certain hours<sup>23</sup>. Kelly explained this differential is not added to her base hourly wage but is only added after multiplying the differential to hours worked during the additional shifts.<sup>24</sup> Kelly testified she tries to work the weekends when Ava is with Matthew. This brings her income to just over \$2900 per month. She works an average of 25 to 30 hours per week currently.

Kelly testified there are no full time positions available in the pharmacy at CMC. She indicated she did not seek additional employment elsewhere (supplemental hours) but did not rule out the possibility when Ava starts attending school full time. She does not rule out daycare to give her more time to work but stated she and Matthew could not agree on a daycare so Ava was not enrolled. Lorrie cares for Ava on Mondays and Wednesdays when Kelly works. Kelly also testified the financial strength of CMC is unknown at this time due to the impact of the pandemic and staff may be laid off. She hopes to be at CMC for the rest of her career.

Ava will be six years old in March 2021. She should start attending school in Hampstead in the fall of 2021 which would open up additional opportunities for Kelly to either find supplemental opportunities or additional hours at CMC. She should start exploring those opportunities now that Ava will be on a shared schedule with Matthew.

<sup>18</sup> See NH RSA 458-C: 5 I

<sup>19</sup> Id

<sup>20</sup> Id and see In the matter of: Silva and Silva, 171 NH 1 (2018).

<sup>21</sup> Index #133

<sup>22</sup> Her per diem wage is \$22.22 per hour.

<sup>23</sup> The shift differential is \$2.50 for hours worked that shift.

<sup>24</sup> IE: she would not earn \$24.72 per hour for the week but would get \$2.50 x 16 hours if she worked that amount of additional time.

The court declines to find Kelly voluntarily underemployed *at this time* due to the impact on a wide range of careers due to the pandemic. It is also hard to impute income to her based on the state of the evidence on the issue.

Based on this finding, the court orders some child support from Matthew due to the disparity in income and to allow Ava to enjoy "a similar or approximately equal style" to that she enjoys with Matthew.<sup>25</sup> The court recognizes that both parents currently live with their parents so they are not currently supporting their own households but they will be in the near future. Kelly testified about plans to rent part of a duplex owned currently, or soon to be purchased, by her mother in Hampstead. Matthew indicated he hopes to move from his parents, perhaps to the Dunbarton property. The timeframe on that is unclear as the property is in serious disrepair.

Matthew shall continue to provide health insurance for Ava.

SEE USO.

**Dependents:**

The parties shall claim the minor child Ava as dependent for income tax purposes, in the following manner:

Matthew, if otherwise qualified under federal/state law, shall be entitled to claim Ava as tax dependent for all even years.

Kelly, if otherwise qualified under federal/state law, shall be entitled to claim Ava as tax dependent for all odd years.

**Post-Secondary Educational Expenses:**

Not applicable

IMPORTANT NOTE: The court cannot order parties to pay for college or other educational expenses beyond the completion of high school unless BOTH parties agree. However, if the parties agree to contribute to these expenses by checking the boxes in Section 4, below, this agreement will become an enforceable order of the court.

**Guardian Ad Litem fees:**

See Order on Appointment of Guardian *ad Litem*.

**Alimony:**

Kelly requested Matthew pay her monthly alimony until April 2023.<sup>26</sup> Matthew objects and argued Kelly could be more self-sustaining if she were to work a full time job. The court finds, even at her current hourly rate, if she were to increase her hours to full-time (40 hours) there would still be a disparity in income of almost \$2000 per month between the parties.

<sup>25</sup> RSA 458-C: 5 I (h), 2 (C).

<sup>26</sup> See proposed Uniform Alimony Order at index #90.

That being said the court denies the request for alimony. The court will obligate Matthew to provide health insurance for Kelly for a period of three years (see below).

**Health Insurance for Spouse:**

The continuation of Matthew's employer-sponsored group medical health insurance benefits on behalf of shall be governed by RSA 415:18. VII-b, COBRA, or other applicable law. Matthew shall maintain health insurance for the benefit of Kelly. This obligation shall terminate in three years. Matthew shall be responsible for payment of the premiums.

Kelly shall maintain dental insurance for the benefit of Matthew. This obligation shall terminate in three years. Kelly shall be responsible for 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.

**Life Insurance:**

Each party shall maintain a life insurance policy in the minimum amount of \$100,000.00 designating the other parent as trustee for the benefit of the child. This obligation shall continue until Ava reaches the age of eighteen years and is no longer considered a minor.

Parties shall exchange proof of continued life insurance coverage as described above each year on or before January 31<sup>st</sup>.

**Motor Vehicles:**

Matthew is awarded the 2018 Chevy Equinox free and clear of any interest of Kelly.

Kelly is awarded the 2018 GMC Terrain free and clear of any interest of Matthew.

Each party shall be responsible for all expenses as to his/her vehicles, including car payments, maintenance, registration and insurance.

**Furniture and other personal property:**

Matthew and Kelly each requested they be awarded specific items of property in their proposed orders. The court notes they are each asking for certain items so the court will rule on those items separately:

Gun safe and firearms: The evidence shows Matthew purchased two firearms before his relationship with Kelly. He purchased the Ruger P-90 pistol in 2001 and the Mossberg 500 in 1995.<sup>27</sup> The court finds these two firearms fall outside inclusion in the marital estate.

Kelly has specifically asked for the AR-15<sup>28</sup>, the MCP 22 rifle, the Ruger P-90 and the Mossberg 500. As the last two firearms have been excluded from division this leaves the AR and the MCP. The AR was appraised by Stateline at \$1000 while Shooters Outpost appraised it at \$1025. Similarly the

<sup>27</sup> Exhibit #21

<sup>28</sup> The appraisals note this as an AR-10-exhibits I and 21



MCP was appraised by Stateline at \$199.99 while Shooters Outpost appraised the gun at \$300.<sup>29</sup> The court is awarding Matthew the gun safe but will divide the two firearms between the parties. Kelly is awarded the MCP while Matthew is awarded the AR. Matthew shall pay Kelly \$765 representing the difference between the average values of the guns.<sup>30</sup>

Ava items: both parents want the Thomas toy box. This shall be awarded to Matthew as the court is awarding Kelly the Peppa Pig, Minnie Mouse and PetNet items listed on her proposed Order.

Pet items: Matthew shall be awarded Max's ashes and the picture of Max and Sadie. The court finds Matthew was devoted to the dogs and he should be able to have these items as remembrances of them. The court makes this finding based on the fact that he did not want to leave Max despite having to be separated from his family. While Kelly may fault him for that the court does not.

Matthew shall provide Kelly copies of any photos he possesses of Kelly and Ava while Kelly shall provide Matthew with copies of any photos she possesses of Matthew and Ava. Kelly shall also be awarded the disc of wedding photos, her jewelry cabinet and the photo of her and Ava in the ICU.

Matthew testified about a boat. He lists the boat on his financial affidavit.<sup>31</sup> He shows a value of \$4,250 with related debt of \$3,090.

The court is awarding Kelly her collectibles. The court will not require Kelly to pay Matthew a 50% share of any value as the court awarded him the value of the boat.

#### **Retirement and Other Tax-Deferred Assets:**

Matthew lists an American Funds retirement account on his financial affidavit. As of September 21, 2020 the value was in excess of \$17,000. The statements provided by Kelly show the account value of between \$15000 and \$16000 in 2018.<sup>32</sup> Kelly is awarded one-half of Matthew's pension which accrued between the date of the marriage and the date of the filing of the petition for divorce pursuant to the Hodgins formula. A Qualified Domestic Relations Order (QDRO) shall be prepared by Matthew within 60 days of the date of the notice of this decision.

Kelly has a pension account with the New England Teamsters.<sup>33</sup> The contributions to the fund were all generated before the marriage and thus will not be considered a marital asset.

#### **Other Financial Assets:**

The parties are awarded their respective checking and/or savings bank accounts, credit union accounts, certificates of deposits and the like, and all similar accounts as shown on their individual financial affidavits filed with the court.

<sup>29</sup> See exhibits I and 21.

<sup>30</sup> The court assesses the value of the AR at \$1015 and the MCP at \$250 thus the difference of \$765.

<sup>31</sup> Index #135

<sup>32</sup> Exhibits A & B

<sup>33</sup> Exhibit F

**Business Interest of the Parties:**

Matthew is awarded all right, title, and interest in the business known as Routhier Land Consulting and Inspection LLC free of any claim or interest of Kelly. Matthew shall be solely responsible for all debts of the business and shall be entitled to receive all profits from the business.

**Division of Debt:**

The parties shall each be responsible for any debt they have incurred after the date of separation, holding each other harmless of the same.

**Marital Home:**

N/A

**Other Real Property:**

Matthew's parents Guy and Frances Routhier live in the family home where they raised their four children on Gray Street in Manchester<sup>34</sup>. Currently Matthew lives with them and Ava visits there during Matthew's parenting time. In June 2011 Guy and Frances secured a mortgage on their Gray Street home in the maximum amount of \$154,800 from Citizen's Bank.<sup>35</sup> Guy testified they used the funds to pay off a car loan, bills and other debt but most of the funds were used to purchase property located at 1209 Montelone Road in Dunbarton, NH in July 2011<sup>36</sup>. The purchase price according to the Purchase and Sales agreement was \$105,000.00<sup>37</sup>. The deed to the property listed Guy, Frances and Matthew Routhier. According to Guy, the plan was for Matthew to build a residence on the property for his family (Kelly and Ava) with an in-law apartment for his parents. This would allow them to eventually move out of Manchester.

When the family had the property surveyed, they discovered a neighboring horse farm encroaching on the property by approximately an acre. An agreement was reached where the farm would lease the acre of the Routhier property on an annual basis<sup>38</sup>. Guy indicated the funds from the lease were to be used toward the taxes on the property.

At the time of the purchase of the Dunbarton property Matthew and Kelly lived together but were not married. Neither Matthew nor Kelly contributed to the purchase price of Dunbarton. Guy and Frances made the payments on the home equity loan used to purchase Dunbarton. Kelly testified she worked with Matthew and his family to clear some of the land and she paid for the removal of approximately 18 trees from the property. Matthew decided to install solar panels on the property and his parents paid for the installation.<sup>39</sup>

Matthew argued that the appraisal by Manias is incomplete and should not be given much weight. It was pointed out by opposing counsel that Matthew would not agree to an appraisal and did not cooperate in that process. In fact Matthew's position, stated by his counsel before trial, was that if

<sup>34</sup> The family has lived at this address since 1976.

<sup>35</sup> Exhibit #1

<sup>36</sup> Exhibit #2

<sup>37</sup> A deposit of \$5000 was required with the rest due at closing.

<sup>38</sup> Exhibit #5

<sup>39</sup> See exhibit #11

Manias walked onto the property the police would be called and they would seek trespass charges. When brought up again at trial Matthew's counsel argued Matthew did not have the right to agree as it is not his property but the property of his parents. The court does not find Matthew's position to be reasonable and it is contrary to the state of the evidence (he is listed on the deed) thus he is not credible in this regard. The court finds he actively sought to prevent the appraisal and was successful in doing so.

Further Matthew opposed the use of the only appraisal done on the property. Due to the staleness of the information and because it was done before the parties were married, the court disallowed the evidence at Matthew's request. The court does not find the lack of a current full appraisal fatal to determination of this issue. However the court does find granting Kelly a portion of the property is not authorized in this type of case in the Family Court

It is clear from the evidence that Guy and Frances Routhier used the equity in their home on Gray Street to finance the purchase of the Dunbarton property and make some improvements on it. The deed to the property lists the senior Routhiers and Matthew as owners. The court understands Kelly believes she is due the value of some portion of Matthew's ownership interest in the property and she considers his ownership interest to be part of the marital estate ripe for division in this case. However the court disagrees with her position.

In the first interest the Family Court is a court of limited jurisdiction whose powers are statutory.<sup>40</sup> Therefore the Family Court does not have jurisdiction to determine ownership interest in property if there is a third party claim.<sup>41</sup> Further the property division part of the statute<sup>42</sup> only allows the court to include property in the estate that is *owned by one or both parties*; this does not include property with third party ownership.<sup>43</sup>

As this property is beyond the jurisdiction of this court, no division of the value of the property will be included in this Decree. The court does recognize Kelly's contribution to clearing the property of some trees. She invested the funds in anticipation that the family would, at some point, be occupying the property. According to the evidence, she paid \$2300 to clear trees<sup>44</sup> therefore Matthew shall reimburse her this sum as she has not and will not get the benefit of this investment.

**Enforceability after Death:**

The terms of this Decree shall be a charge against each party's estate.

**Signing of Documents:**

Each party shall, within 30 days of the date of the notice of this Decree and Order, sign and deliver to the other party any document or paper that is needed to fulfill or accomplish the terms of this Decree.

<sup>40</sup> See Mallett and Mallett, 163 N.H. 202 (2012).

<sup>41</sup> See NH RSA 490-D and Muller and Muller, 164 N.H. 512 (2013)

<sup>42</sup> NH RSA 458: 16-a

<sup>43</sup> See Muller at 518.

<sup>44</sup> Exhibit #13

**Restraining Order:**

N/A

**Name Change:**

Kelly Ann Routhier may resume the use of her former name: Kelly Ann Ryan.

**Other Requests:**

**Attorney's 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 attorney's fees, that may be incurred in order to enforce compliance.

**Tax Refunds:** Any tax refund due or anticipated by the parties resulting from their having filed a joint federal and/or state income tax return for this or any prior year shall, upon receipt, be endorsed by both parties and equally distributed between them.

**Disclosure of Assets:** The parties warrant that they have fully disclosed all assets within their knowledge on their respective Financial Affidavit, specifically including any pension, profit sharing or retirement account, along with reasonable estimated values of each asset. The financial information contained on each party's Financial Affidavit is accurate and complete and has been relied upon by the other party.

**Compliance With Rule 1.25-A:** The parties have fully complied with Rule 1.25-A; or The parties agreed to limit their document exchange under Rule 1.25-A.

**Mutual Releases:** Other than as set forth in this decree or other order of this court (including "Uniform Support Order") each party releases and agrees to defend, indemnify and hold the other harmless from any and all claims of any nature whatsoever arising out of the marriage.

**Obligations:** Unless specifically mentioned in this decree, each party shall be solely responsible for any bills, obligations or other indebtedness that he or she has charged or incurred before or during the marriage or civil union.

**Change in Address or Employment:** Each party shall promptly notify the other of any change in his/her address or telephone number, and 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.

**FINDINGS AND RULINGS:**

Matthew's requests:

Granted: 2-5, 7, 8, 10, 15, 19-26, 28-32, 35, 36, 38-40, 42-44, 48, 50

Denied: 6, 45, 46, 47, 49

Denied as written: 1, 9, 11-14, 16-18, 27, 33, 34, 37, 41

Kelly's requests:

Kelly submitted 157 requests for findings and rulings. The court finds the requests excessive. As such the court orders findings and rulings consistent with this Order.

IN THE EVENT OF AN APPEAL TO THE NEW HAMPSHIRE SUPREME COURT THIS ORDER SHALL ACT AS A TEMPORARY ORDER PENDING THE DECISION OF THE SUPREME COURT.

So Ordered.

11/6/2020

Date



Lucinda V. Sadler, Judge

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
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RECEIVED  
NH CIRCUIT COURT  
6TH CIRCUIT HOOKSETT

Court Name: 6th Circuit – Family Division – Hooksett  
Case Name: In the Matter of Matthew Routhier and Kelly Routhier  
Case Number: 647-2018-DM-00111

2018 SEP 10 P 12:30

**PARENTING PLAN**

This parenting plan is: (Choose one)

- Agreed upon     Proposed by Matthew Routhier     Developed by Court  
(parent's name)

This parenting plan is: (Choose one)

- Temporary. The completed paragraphs apply until the case is concluded. If you are requesting a temporary order on parenting issues, you should include as many of these parenting plan topics as you will need to carry your family through until all parenting issues are resolved.
- Final. All completed paragraphs shall be incorporated in the Court's final order.
- Changing a prior final Parenting Plan or a prior permanent order on parental rights and responsibilities.

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. The statute also requires that the parenting plan include a detailed parenting schedule for each child, specifying the periods when each parent has residential responsibility or non-residential parenting time.

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.

However, pursuant to RSA 461-A:6, I-a, if the court concludes that frequent and continuing contact between each child and both parents is not in the best interest of the child, the court shall make findings supporting its order.

Case Name: In the Matter of Matthew Routhier and Kelly Routhier

Case Number: 647-2018-DM-00111

**PARENTING PLAN**

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

Full Name	Date of Birth	Full Name	Date of Birth
1. Ava Marie Routhier	3/22/2015	2.	
3.		4.	
5.		6.	

**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 Matthew Routhier (parent's name)  
27B Harvest Drive  
Hooksett NH 03106

Legal Residence of Kelly Ann Routhier (parent's name)  
20 Abbie Lane  
Hampstead NH

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 decision 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:** The parties shall choose a new primary care physician, outside of the current practice, within 60 days of this decree. *V. Routhier*

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

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

(a) Set forth the detailed parenting schedule for the child(ren) specifying periods when each parent has residential responsibility or non-residential parenting time (such as dinners or other parenting time that is not overnight).

NOTE: Neither parent shall be described as having the child "reside primarily" with him or her or as having "primary residential responsibility" or "custody" or be designated as the "primary residential parent":

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Two week schedule

Week One:

With Matthew: Sunday 6 pm through Wednesday 6 pm

With Kelly: Wednesday 6 pm through Friday 6 pm

With Matthew: Friday 6 pm through Monday 6 pm

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**PARENTING PLAN**

Week Two

With Kelly: Monday 6 pm through Wednesday 6 pm

With Matthew: Wednesday 6 pm through Friday 6 pm

With Kelly: Friday 6 pm through Sunday 6 pm

Whoever has residential responsibility shall be responsible for transport to and from daycare/school

*M Monday (WS)*

(b) The child(ren) shall reside solely with \_\_\_\_\_ (parent's name).  
Based on the following, the court concludes that frequent and continuing contact between each child and both parents is not in the best interest of the child and makes the following findings in support of this order:

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 times 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 \_\_\_\_\_ with Kelly 8 AM to 6 PM

Father's Day \_\_\_\_\_ with Matthew 8 AM to 6 PM

July 4<sup>th</sup> \_\_\_\_\_

Thanksgiving \_\_\_\_\_ Alternating Matthew-odd, Kelly- even yrs: Wed at 5 PM through Thanksgiving at 6 PM



Case Name: \_\_\_\_\_

In the Matter of Matthew Routhier and Kelly Routhie

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**PARENTING PLAN**

Christmas Eve Alternating Matthew-odd, Kelly- even yrs: 5 pm -12 pm Christmas  
Alternating Kelly- odd, Matthew even yrs:

Christmas Day 12 pm Christmas -7 am December 26

Child(ren)'s Birthday(s) \_\_\_\_\_

One Parent's Birthday \_\_\_\_\_

Other Parent's Birthday \_\_\_\_\_

Other religious, civil and family celebrated special occasions:

Easter: Whoever has the child for that weekend shall have Ava until noon Easter Sunday. Then the other parent shall have Ava from noon and continuing into the regular schedule.

Halloween: Kelly - even, Matthew - odd years: 3 hours on chosen day, with notice to be given 10 days in advance. Other parent to provide notice 3 days after of their 3 hours.

New Years Eve/Day: Matthew - even, Kelly - odd: 9 AM 12/31 - 2 PM 1/1

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 Matt - even years, Kelly - odd years

Presidents' Day Matt - even years, Kelly - odd years

Memorial Day Matt - odd years, Kelly - even years

Labor Day Matt - even years, Kelly - odd years

Columbus Day Matt - odd years, Kelly - even years

Other The schedule for all 3-day weekends shall be Fri 6 PM - Mon 6 PM

4. Vacation Schedule:

(a) December Vacation: (Choose one)

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

(ii.) 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:

Dec 26 at 7 AM through January 2 at 6 PM

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

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**PARENTING PLAN**

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

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

(ii.) The children 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 children 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:

(iii.) 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:

February: Saturday 9 AM to Saturday 6 PM - Matthew even, Kelly odd years

April: Saturday 9 AM to Saturday 6 PM - Kelly even, Matthew odd years

Summer vacation: 2 non-consecutive weeks, Saturday 9 AM - Saturday 6 PM, with first selection by March 1, Matthew - even, Kelly - odd years.

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

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 a change as soon as possible. The parents are expected to fairly adjust parenting schedules when family situations, illnesses or other commitments make modification reasonable.

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**PARENTING PLAN**

(b) If a parent requires child care by some person who does not reside in his or her residence, for a person reasonably expected to last longer than 5 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 parties agree that, as allowed by RSA 193:12, II(a)(2) their child's legal residence for school attendance purposes will be the Matthew Routhier (parent's name) residence. See the attached Agreement and Parenting Plan Order Designating School District (NHJB 2763-F). Each parent shall furnish a copy of the agreement to the school district in which the parents resides.

2. The court orders that the child(ren) shall attend school in the \_\_\_\_\_ (parent's name) resides.

3. The child(ren) shall attend school in the school district where the parent with sole residential responsibility resides. Under this plan, that parent is \_\_\_\_\_

4. Other provisions regarding school:

**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:

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

Manchester Police Station, 405 Valley Street, Manchester NH *1/2 way point between residences*

3. Transportation costs shall be shared as follows:

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

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**PARENTING PLAN**

**E. Information Sharing 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 an 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: 7:30 pm

(c) Other: parents shall speak to Ava through Facetime

**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):

**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. Any time after the filing of a parenting or divorce petition, a parent shall not relocate the residence of a child without a court order unless: 1) relocation results in the residence being closer to the other parent, or 2) relocation is to any location within the child's current school district, or 3) relocation is necessary to protect the safety of the parent or child, or both, as later determined by the court. 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 or the parents have a written agreement to the contrary. At the request of either parent, the court shall hold a hearing on the relocation issue. Either parent may request that the court issue ex parte orders as provided in RSA 461-A:9 to prevent or allow relocation of the child(ren).

Case Name: In the Matter of Matthew Routhier and Kelly Routhie  
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**PARENTING PLAN**

2. This parenting plan shall expressly govern the relocation issue as follows:  
In addition to the provisions 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 and shall include the grounds for modification from those listed in RSA 461-A:11. (Found at: <http://www.gencourt.state.nh.us/rsa/html/XLIII/461-A/461-A-11.htm>) Any agreement shall be 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). They are encouraged to seek the help of a neutral third party to assist them. If the parents are unable to work out the disagreement they may ask the court to decide the issue.

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

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

- 1. Parents shall utilize the parenting App called 2 houses to share child's information schedule and communications about the child and the subscription cost shall be split evenly between the parties.
- 2. Parents shall provide 30-days notice about trips the child will take out of state for more than 24 hours.
- 3. Child shall maintain a passport for traveling purposes and the cost for application shall be paid by Matthew and then renewal shall be paid by Kelly then alternating between the parties with each renewal. The passport shall be the property of the child and shall be shared between the parents.

*Valerie WS*

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Case Name: In the Matter of Matthew Routhier and Kelly Routhie

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**PARENTING PLAN**

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature 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:** *ad awarded*

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 *11/10/2018*

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

**LUCINDA V. SADLER**  
\_\_\_\_\_  
Printed Name of Judge

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

Court Name: 6th Circuit - Family Division - Hooksett  
Case Name: In the Matter of Matthew Routhier and Kelly Routhier  
Case Number: 647-2018-DM-00111

UNIFORM SUPPORT ORDER

Name, Residence and Mailing Address of Person  
Ordered to Pay Support (Obligor):

Name, Residence and Mailing Address of  
Person Receiving Support (Obligee):

Matthew Routhier  
244 Gray Street, Manchester, NH  
D.O.B.: \_\_\_\_\_ Telephone: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Name of Employer: Bedford Design  
Address of Employer:  
Manchester, NH

Kelly Ann Routhier  
20 Abbie Lane, Hampstead, NH  
D.O.B.: \_\_\_\_\_ Telephone: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Name of Employer: CMC  
Address of Employer:  
Manchester, NH

Child(ren) to whom this order applies:  
Full Name

Date of Birth

<u>Ava Marie Routhier</u>	<u>March 22, 2015</u>
---------------------------	-----------------------

The following parties appeared:  Obligor  Obligee  Bureau of Child Support Services  
 Other \_\_\_\_\_

NOTE: SECTIONS PRECEDED BY  ARE ONLY PART OF THIS ORDER IF MARKED.

1. This order is entered:  
 after hearing  
 upon approval of agreement  
 upon default
2. This order is a:  
 temporary order  
 final order
3. This order modifies a final support obligation in accordance with:  
 a three-year review (RSA 458-C:7) OR  substantial change in circumstances, as follows:  
\_\_\_\_\_
4. Obligor is ORDERED to PAY THE FOLLOWING AMOUNTS (See Standing Orders 4A-4G):  
4.1 CHILD SUPPORT: \$ 200.00 per bi-weekly (week, month, etc.)  
4.2 Arrearage of \$ \_\_\_\_\_ as of \_\_\_\_\_,  
payable \$ \_\_\_\_\_ per \_\_\_\_\_ (week, month, etc.)

Case Name: In the Matter of Matthew Routhier and Kelly Routhier

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**UNIFORM SUPPORT ORDER**

4.3 Medical arrearage of \$ \_\_\_\_\_ as of \_\_\_\_\_,  
payable \$ \_\_\_\_\_ per \_\_\_\_\_ (week, month, etc.)

4.4  Alimony is ordered. See the Uniform Alimony Order.  N/A

4.5 Alimony arrearage of \$ \_\_\_\_\_ as of \_\_\_\_\_,  
payable \$ \_\_\_\_\_ per \_\_\_\_\_ (week, month, etc.)

4.6 Alimony shall terminate \_\_\_\_\_

5. Payments on all ordered amounts shall begin on 11/1/2020. All ordered amounts shall be payable to  Obligee -  Bureau of Child Support Services  Other \_\_\_\_\_

6.  This order complies with the child support guidelines. RSA 458-C.

This order, entered upon obligor's default, is based on a reasonable estimate of obligor's income. Compliance with the guidelines cannot be determined.

The following special circumstances warrant an adjustment from the guidelines (Enter applicable circumstances below. See Standing Order 6):  
shared parenting and expenses for the child. Matthew will also provide health insurance.

7. Support ordered is payable by immediate income assignment.

8. The Court finds that there is good cause to suspend the immediate income assignment because:

Obligor and obligee have agreed in writing.

Payments have been timely and it would be in the best interest of the minor child(ren) because:

9A. Obligor is unemployed and **MUST REPORT EFFORTS TO SEEK EMPLOYMENT.**  
(See Standing Order 9A).

9B. Upon employment the Obligor shall bring the matter forward for recalculation of support. Failure to do so may result in a recalculated support order effective the date of employment.

**MEDICAL SUPPORT FINDINGS (Paragraphs 10 through 15)**

10. **OBLIGOR'S** medical support reasonable cost obligation: \$ 224.00 per month (week, month, etc.)

10A.  The medical support reasonable cost obligation is adjusted from the presumptive amount because of the following special circumstances (Enter applicable circumstances below. See Standing Order 6):

11. Health insurance coverage  is not available  is available to the **OBLIGOR** in an amount equal to or less than the amount of the medical support reasonable cost obligation ordered in paragraph 10.

12.  Health insurance coverage available to the **OBLIGOR** is not accessible to the child(ren).

13. **OBLIGEE'S** medical support reasonable cost obligation: \$ 116.68 per month (week, month, etc.)



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**UNIFORM SUPPORT ORDER**

13A.  The medical support reasonable cost obligation is adjusted from the presumptive amount because of the following special circumstances (Enter applicable circumstances below. See Standing Order 6):  
\_\_\_\_\_

14. Health insurance coverage  is not available  is available to the OBLIGEE in an amount equal to or less than the amount of the medical support reasonable cost obligation ordered in paragraph 13.

15.  Health insurance coverage available to the OBLIGEE is not accessible to the child(ren).

**HEALTH INSURANCE COVERAGE (Paragraph 16A and/or 16B must be completed):**

16A.  Obligor  Obligee is ordered to provide health insurance coverage for the child(ren) effective ongoing

16B.  Obligor  Obligee is/are not ordered to provide health insurance coverage at this time but is/are ordered to immediately obtain health insurance coverage when it becomes accessible and available at an amount equal to or less than the ordered medical support reasonable cost obligation.

**UNINSURED MEDICAL EXPENSES**

17. Uninsured medical expenses shall be paid in the following percentage amounts:

Obligor 50 % Obligee 50 % Other: \_\_\_\_\_

18. Public assistance (TANF) or medical assistance (Medicaid) is or was provided for the children. Copies of pleadings related to medical coverage and child support were mailed to the Bureau of Child Support Services, Child Support Legal, 129 Pleasant Street, Concord, NH 03301.

19.  Obligor  Obligee is adjudicated the father of the minor child(ren) named above. The clerk of the city(ies) of \_\_\_\_\_ shall enter the name of the father on the birth certificate(s) of the child(ren). The father's date of birth is \_\_\_\_\_ and his state of birth is \_\_\_\_\_.

20. The State of \_\_\_\_\_ has provided public assistance for the benefit of the minor child(ren) between \_\_\_\_\_ and \_\_\_\_\_ for \_\_\_\_\_ weeks. Obligor is indebted for the assistance in the total amount of \$ \_\_\_\_\_

21. Variation to standing order (specify paragraph #), additional agreement or order of the Court: see narrative order

\_\_\_\_\_  
Obligor

\_\_\_\_\_  
Obligee

\_\_\_\_\_  
Staff Attorney  
Bureau of Child Support Services

\_\_\_\_\_  
Obligor's Attorney/Witness

\_\_\_\_\_  
Obligee's Attorney/Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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UNIFORM SUPPORT ORDER

All paragraphs of this order (except those that have a check box and have not been selected) and all paragraphs of the Standing Order, (except variations in paragraph 21) are part of this order and apply to all parties.

**Recommended:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Marital Master/Hearing Officer

\_\_\_\_\_  
Printed Name of Marital Master/Hearing Officer

**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.

11/10/2018  
Date

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

**LUCINDA V. SADLER**

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

UNIFORM SUPPORT ORDER

**THE STATE OF NEW HAMPSHIRE  
UNIFORM SUPPORT ORDER — STANDING ORDER**

**NOTICE:** This Standing Order (SO) is a part of all Uniform Support Orders (USO) and shall be given full effect as an order of the Court. Variations to paragraphs of the SO in a specific case must be entered in paragraph 21 of the USO and approved by the Court.

(Paragraph numbers in the SO correspond to related paragraph numbers in the USO. Variations entered in paragraph 21 should reference the related paragraph number.)

**SUPPORT PAYMENT TERMS**

- SO-3A. All prior orders not inconsistent with this order remain in full force and effect.
- SO-3B. In cases where the order of another jurisdiction is registered for modification, a tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing jurisdiction. (See RSA 546-B:49,III.)
- SO-3C. This order shall be subject to review and Court modification three years from its effective date upon the request of a party. Any party may petition the Court at any time for a modification of this support order if there is a substantial change in circumstances. The effective date of any modification shall be no earlier than the date of notice to the other party. "Notice" means either of the following: 1) service as specified in civil actions or 2) the respondent's acceptance of a copy of the petition, as long as the petition is filed no later than 30 days following the respondent's acceptance. See RSA 458-C:7.
- SO-3D. No modification of a support order shall alter any arrearages due prior to the date of filing the pleading for modification. RSA 461-A:14, VIII.
- SO-4A. The amount of a child support obligation shall remain as stated in the order until the dependent child for whom support is ordered completes his or her high school education or reaches the age of 18 years, whichever is later, or marries, or becomes a member of the armed services, or is emancipated pursuant to an order of emancipation under RSA 461-B, at which time the child support obligation, including all educational support obligations, terminates without further legal action, except where duration of the support obligation has been previously determined by another jurisdiction, or is governed by the law of another jurisdiction, and may not be modified in accordance with statutory language referenced in SO-3B. If the parties have a child with disabilities, the court may initiate or continue the child support obligation after the child reaches the age of 18. No child support order for a child with disabilities which becomes effective after July 9, 2013 may continue after the child reaches age 21. (See RSA 461-A:14, IV)
- SO-4B. In multiple child orders, the amount of child support may be recalculated according to the guidelines whenever there is a change in the number of children for whom support is ordered, upon petition of any party. In single child orders, the support obligation terminates automatically, without the need for further court action, upon the emancipation of the child. The obligor remains obligated for any and all arrearages of the support obligation that may exist at the time of emancipation.
- SO-4C. If the order establishes a support obligation for more than one child, and if the court can determine that within the next 3 years support will terminate for one of the children, the amount of the new child support obligation for the remaining children may be stated in the order and shall take effect on the date or event specified without further legal action.
- SO-4D. In cases payable through the New Hampshire Bureau of Child Support Services (BCSS), if there are arrearages when support for a child is terminated, payments on the arrearages shall increase by the amount of any reduction of child support until the arrearages are paid in full.
- SO-4E. Pursuant to RSA 161-C:22, III when an assignment of support rights has terminated and obligor and the recipient of public assistance reunite, obligor may request a suspension of the collection of support arrearage owed to the state under RSA 161-C:4. So long as the family remains reunited and provided that the adjusted gross income of the family as defined by RSA 458-C is equal to or less than 185% of the Federal poverty guidelines as set by the United States Department of Health and Human Services, BCSS shall not take any action to collect the support arrearage owed to the State.
- SO-4F. If the collection of a support arrearage pursuant to RSA 161-C:4 is suspended, the obligor shall provide BCSS with a financial affidavit every six months evidencing the income of the reunited family and shall notify his or her child support worker in writing within ten days of any change in income or if the family is no longer reunited. Failure to report changes in income or in the status of the family as reunited or to provide a financial affidavit shall cause the suspension of collection to terminate.

**UNIFORM SUPPORT ORDER**

- SO-4G. Each party shall inform the Court in writing of any change in address, within 15 days of the change, so long as this order is in effect. Service of notice of any proceeding related to this order shall be sufficient if made on a party at the last address on file with the Court. A party who fails to keep the Court informed of such a change in address, and who then fails to attend a hearing because of the lack of notice, may be subject to arrest.
- SO-5A. If no date appears in paragraph 5 of the USO, the first support payment shall be due on the date this order is signed by the Judge.
- SO-5B. If support is payable through BCSS, a BCSS application for child support services must be submitted before BCSS can provide services in accordance with the order.
- SO-5C. If support is payable through BCSS, BCSS is authorized and directed to collect all sums, including any arrearages, from the obligor and forward the sums collected to the obligee or person, department, or agency providing support to the children named in the USO. Any payment shall be applied first as payment towards the current child and medical support obligation due that month and second towards any arrearages.
- SO-5D. If support is ordered payable directly to the obligee, it can only be made payable through BCSS at a later time if (1) the children named in the USO receive assistance pursuant to RSA 161 or RSA 167; (2) a party applies for support enforcement services and certifies to BCSS that (a) an arrearage has accumulated to an amount equal to the support obligation for one month, or (b) a court has issued a protective order pursuant to RSA 173-B or RSA 461-A:10 which remains in full force and effect at the time of application; or (3) a court orders payment through BCSS upon motion of any party that it is in the best interest of the child, obligee, or obligor to do so. RSA 161-B:4.
- SO-5E. Collection by BCSS on any arrearage may include intercepting the obligor's federal tax refund, placing liens on the obligor's personal and real property including qualifying financial accounts. Federal tax refund intercept and lien remedies shall be used to collect arrearages even if an obligor is complying with the child support orders. Pursuant to 45 CFR 303.72 (h) any federal tax refund intercept shall be applied first as payment towards the past due support assigned to the State.
- SO-5F. In all cases where child support is payable through BCSS, obligor and obligee shall inform BCSS in writing of any change of address or change of name and address of employer, within 15 days of the change.
- SO-5G. In all cases where child support is payable through BCSS, obligor and obligee shall furnish their social security numbers to the New Hampshire Department of Health and Human Services (Department).
- SO-6. Where the court determines that, in light of the best interests of the child, special circumstances exist that result in adjustments in the application of the guidelines for the child support obligation or the reasonable medical support obligation, the court shall make written findings relative to the applicability of one or more of the special circumstances described in RSA 458-C:5, I.

**INCOME ASSIGNMENT**

- SO-7A. Until such time as an income assignment goes into effect, payments shall be made as follows: (1) if the case is not payable through BCSS, directly to obligee, or (2) if support is payable through the BCSS by use of payment coupons available at the local BCSS office. An income assignment will not go into effect for self-employed obligors as long as they do not receive income as defined in RSA 458-B:1, paragraph IX. Future income will be subject to assignment if the case is payable through BCSS.
- SO-7B. If a parent is ordered to provide health coverage for Medicaid-eligible child(ren), he or she must use payments received for health care services to reimburse the appropriate party, otherwise his or her income may be subject to income assignment by BCSS. RSA 161-H:2(V).
- SO-7C. Increased income assignment for the purposes of payment on arrearages shall continue until such time as the arrearages are paid in full.
- SO-8. Whenever an income assignment is suspended, it may be instituted if a Court finds obligor in violation or contempt of this order OR after notice and the opportunity to be heard (RSA 458-B:5 & 7), when the Department begins paying public assistance for the benefit of a child OR when an arrearage amounting to the support due for a one-month period has accrued.

**REPORT CHANGES OF EMPLOYMENT**

- SO-9A. If support is payable through BCSS, obligor shall report in writing weekly, or as otherwise ordered by Court, to BCSS, and shall provide details of efforts made to find a job. Efforts to obtain employment shall include registering with New Hampshire Employment Security within two weeks of the date of this order. The obligor shall immediately report employment to BCSS in writing.
- SO-9B. Immediately upon employment the obligor shall report to the obligee, in writing, details of employment, including name and address of employer, the starting date, number of weekly hours and the rate of pay.

Case Name: In the Matter of Matthew Routhier and Kelly Routhier

Case Number: 647-2018-DM-00111

UNIFORM SUPPORT ORDER

**MEDICAL SUPPORT PROVISIONS**

- SO-10-16B (1). In all cases where support is payable through BCSS, or where the Department is providing medical assistance for the child(ren) under RSA 167, the court shall include the medical support obligation in any child support order issued. RSA 461-A:14, IX(d).
- SO-10-16B (2). The court shall establish and order a reasonable medical support obligation for each parent. The presumptive amount of a reasonable medical support obligation shall be 4 percent of the individual parent's gross income, unless the court establishes and orders a different amount based on a written finding or a specific finding, made by the presiding officer on the record, that the presumptive amount would be unjust or inappropriate, using the criteria set forth in RSA 458-C:5.
- SO-10-16B (3). The court shall determine whether health insurance is available to either parent at a cost that is at or below the reasonable medical support obligation amount, as established and ordered pursuant to RSA 458-C:3, V, or is available by combining the reasonable medical support obligations of both parents, and, if so available, the court shall order the parent, or parents, to provide such insurance for the child.
- SO-10-16B (4). The cost of providing health insurance is the cost of adding the child to existing coverage, or the difference between individual and family coverage.
- SO-12, 15. Accessible health insurance means the primary care services are located within 50 miles or one hour from the child(ren)'s primary residence. RSA 461-A:14, IX(b).
- SO-16A-16B A party providing or ordered to provide health insurance for the child(ren) shall give the other party sufficient information and documentation to make sure insurance coverage is effective. If support is payable through BCSS, or if there has been an assignment of medical support rights to BCSS, the information and documentation shall be provided to BCSS. In addition, obligor shall inform BCSS in writing when health insurance is available, obtained or discontinued.

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH**

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

Court Name: 6th Circuit Court-Family Division-Hooksett  
 Case Name: Matthew Routhier and Kelly Routhier  
 Case Number: 647-2018-DM-0111

**CHILD SUPPORT GUIDELINES WORKSHEET  
Effective April 1 2020**

Child's Name	DOB	Child's Name	DOB
Ava	03/22/2015		
1. Total Number Of Children <input checked="" type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input type="radio"/> 4 +			
2. Obligor's Reasonable Medical Support Obligation (4% Monthly Gross Income, rounded to the nearest dollar) \$224.60		3. Obligee's Reasonable Medical Support Obligation (4% Monthly Gross Income, rounded to the nearest dollar) \$116.68	

<b>PAYMENT CALCULATIONS</b> <small>NOTE: All income and expenses must be converted to monthly amounts (multiply weekly amounts by 4.33; bi-weekly amounts by 2.17).</small>	OBLIGOR (Column 1)	OBLIGEE (Column 2)	Combined (Column 3)
4. Monthly gross income	\$ 5615.00	\$ 2917.00	
5A. Court/Admin. ordered support for other children	\$ _____	\$ _____	
5B. 50% of actual self-employment taxes paid	\$ _____	\$ _____	
5C. Mandatory retirement	\$ _____	\$ _____	
5D. Actual state income taxes paid	\$ _____	\$ _____	
5E. Allowable child care expenses (obligor) (See LINE 5E instructions)	\$ _____		
5F. Medical support for children (obligor)	\$ 127.00		
5G. Total deductions (Add lines 5A through 5F)	\$127.00	\$0.00	
6. Adjusted monthly gross income (Subtract line 5G from line 4)	\$5,488.00	\$2,917.00	\$8,405.00
7A. Child Support guideline amount (From Guideline Calculation Table)			\$1,369.13
7B. Guideline Percentage (From Guideline Calculation Table)			21.11 %
8A. Allowable child care expenses (obligee) (See LINE 8A instructions)		\$ _____	
8B. Medical support for children (obligee)		\$ _____	
8C. Total allowable obligee expenses (Add line 8A and 8B)		\$0.00	
9. Total adjusted monthly gross income	\$5,488.00	\$2,917.00	\$8,405.00
10. Proportional share of income	65.29 %	34.71 %	
11. Parental support obligation (Line 10 times line 7A)	\$893.97	\$475.16	
<b>ABILITY TO PAY CALCULATION</b>			
12. Self-support reserve (From Guideline Calculation Table)	\$1,223.00		
13. Income available for support (Subtract line 12 from line 9, column 1)	\$4,265.00		
14. Monthly support payable (Enter the smaller line 11, column 1, or line 13, column 1. If line 13, column 1, is less than \$50.00, then a minimum order of \$50.00 is entered.)	\$893.97		
15. Presumptive child support obligation (If weekly, divide line 14 by 4.33; if bi-weekly, divide line 14 by 2.17; if monthly, enter same amount as in line 14.)			
<b>** ROUND THE RESULT TO THE NEAREST WHOLE DOLLAR **</b>			
<b>Calculate</b>	Weekly \$206.00	Bi-Weekly \$412.00	Monthly \$894.00

Prepared By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

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

**SCANNED**

6th Circuit - Family Division - Hooksett  
101 Merrimack Street  
Hooksett NH 03106

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

**NOTICE OF DECISION**

JAN 06 2021

**KERI J. MARSHALL, ESQ  
MARSHALL LAW OFFICE  
47 DEPOT ROAD  
EAST KINGSTON NH 03827-2002**

Case Name: **In the Matter of Matthew Routhier and Kelly Routhier**  
Case Number: **647-2018-DM-00111**

Enclosed please find a copy of the Court's Order dated December 31, 2020 relative to:

**Order  
Parenting Plan**

It will cost \$40.00 for a certified copy of your decree.

This matter will become final on 02/05/2021 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.

January 04, 2021

Nancy E. Ringland  
Clerk of Court

(647292)

C: Deborah Mulcrone; Patricia M. LaFrance, ESQ; Kevin G. Collimore, ESQ

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

IAN 06 2021

Merrimack County

6<sup>th</sup> Circuit – Family Division -  
Hooksett

**MATTHEW ROUTHIER and KELLY ANN ROUTHIER**

**Docket # 647-2018-DM-0111**

**ORDER**

Each party has filed requests for reconsideration or clarification. The court will address the issues in which clarification or reconsideration is granted. The court denies all other requests not addressed specifically.

**Matthew's address:**

Matthew pointed out that his address in the final Parenting Plan (index #103) is incorrect. The court mistakenly used a template proposed final Parenting Plan he submitted for the final hearing. The court did not realize a mistake was made and his address will be corrected.

Ava is ordered to attend school in the Hampstead School District where her mother Kelly lives. That inconsistency between the Parenting Plan and narrative Order will also be corrected.

The schedule shall also be amended to reflect that exchange times end/begin on Sunday at 6pm and not Monday.

The court is also adjusting the schedule so as to make consistent times/dates for the Christmas and New Year's holiday periods. The court understands Kelly disagrees with this schedule but she will have the advantage of the schedule every other year. That is only fair.

The court is also adding that grandparents can assist in the exchanges of Ava if the parents are precluded from attending due to work or another obligation that cannot be rescheduled.

A new Parenting Plan will issue correcting these mistakes.

**Guns:**

Matthew expressed concern in regard the court's award of firearms to each of the parties. He argued Kelly has not been through the extensive background check that he has and he is uncomfortable with providing her with firearms. The court finds there is no requirement for Kelly Ann to submit to a background check for the purposes of being awarded certain firearms pertaining to the Final Decree and Order.

The court stands by the amount in the final Order in respect to the difference between the firearms awarded to each party.

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Findings and rulings: Kelly Ann asked the court to reconsider and review her proposed findings and rulings. Making a finding on a specific request is not required if the court finds the narrative or other orders amply support the decisions made. The court therefore declines to review the findings and rulings submitted again stating they are voluminous. Despite the fact there is no rule limiting the number of requests, the court has discretion in this area. See Harrington v. Town of Warner, 152 N.H. 74 (2005) and Geiss v. Bourassa, 140 N.H. 629 (1996).

So Ordered.

Date

12/31/20



Lucinda V. Sadler, Judge

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

JAN 06 2021

Court Name: 6th Circuit - Family Division - Hooksett  
Case Name: In the Matter of Matthew Routhier and Kelly Routhier  
Case Number: 647-2018-DM-00111

**PARENTING PLAN**

This parenting plan is: **(Choose one)**

Agreed upon  Proposed by \_\_\_\_\_  
(parent's name)

Developed by Court

This parenting plan is: **(Choose one)**

Temporary: The completed paragraphs apply until the case is concluded. If you are requesting a temporary order on parenting issues, you should include as many of these parenting plan topics as you will need to carry your family through until all parenting issues are resolved.

Final: All completed paragraphs shall be incorporated in the Court's final order.

Changing a prior final Parenting Plan or a prior permanent order on parental rights and responsibilities.

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. The statute also requires that the parenting plan include a detailed parenting schedule for each child, specifying the periods when each parent has residential responsibility or non-residential parenting time.

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.

However, pursuant to RSA 461-A:6, I-a, if the court concludes that frequent and continuing contact between each child and both parents is not in the best interest of the child, the court shall make findings supporting its order.

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

Full Name

Date of Birth

Ava Marie Routhier

March 22, 2015

**A. Decision-Making Responsibility:**

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

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

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. 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: Matthew Routhier (parent's name)

244 Gray Street Manchester NH 03103

Legal Residence of: Kelly Ann Routhier (parent's name)

20 Abbie Lane, Hampstead, NH 03841

2. **Day-To-Day Decisions:** Each parent shall make day-to-day decisions for the child during the time he/she is caring for the child. This includes any emergency decisions affecting the health or safety of the child. 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:**

(a) Set forth the detailed parenting schedule for the child specifying periods when each parent has residential responsibility or non-residential parenting time (such as dinners or other parenting time that is not overnight).

NOTE: Neither parent shall be described as having the child "reside primarily" with him or her or as having "primary residential responsibility" or "custody" or be designated as the "primary residential parent":

Week One:

With Matthew-Sunday at 5pm to Wednesday at 8am

With Kelly-Wednesday at 8am to Friday at 8am

With Matthew from Friday at 8am to Sunday at 5pm

Week Two:

With Kelly-Sunday at 5pm to Wednesday at 8am

With Matthew-Wednesday at 8am until Friday at 8am

With Kelly-Friday at 8am until Sunday at 5pm

2. Holiday and Birthday Planning:

(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 \_\_\_\_\_

Father's Day \_\_\_\_\_

July 4<sup>th</sup> \_\_\_\_\_

Thanksgiving \_\_\_\_\_

Christmas Eve \_\_\_\_\_

Christmas Day \_\_\_\_\_

Child's Birthday(s) \_\_\_\_\_

One Parent's Birthday \_\_\_\_\_

Other Parent's Birthday \_\_\_\_\_

Other religious, civil and family celebrated special occasions:

Easter—whoever has Ava for that weekend will have her until noon on Easter Sunday. Then the other parent shall have Ava from noon continuing into the regular schedule.

Halloween-Kelly even years, Matthew odd years: 3 hours on chosen day, with notice to be given 10 days in advance. Other parent to provide notice 3 days after of their 3 hours.

New Years Eve/Day: Matthew even years, Kelly odd: 9am on 12/31 to 2pm on 1/1

3. Three-day weekends:

(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 \_\_\_\_\_

4. Vacation Schedule:

(a) December Vacation:

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

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

The parent exercising parenting time with Ava on Christmas Day shall have the following additional parenting time from December 26<sup>th</sup> at 7am until January 1 at 6pm

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

(iii.) The above choices do not fit this parenting situation. Instead, the residential schedule for the child'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.

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

(ii.) The child shall reside with \_\_\_\_\_ in even years, Kelly in odd years (parent's name) during February vacation, except for the following days and times when the child shall be with the other parent:

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

Again vacation times are considered Saturday at 9am until Saturday at 6pm

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

Two non-consecutive weeks for each parent with Ava. Weeks considered Saturday at 9am until Saturday at 6pm. Parents select their dates by March 1 each year with Matthew having preference in even years and Kelly in odd years

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

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

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5. Supervised Parenting Time:

(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:

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6. Other Parental Responsibilities:

Each parent shall promote a healthy, beneficial relationship between the child 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.

Neither parent shall permit the child 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:

(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 5 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's clothing for them for their scheduled time with the other parent. These clothes are to be considered the child's clothes and shall be returned with the child.

(d) Each parent shall be responsible for ensuring that the child attend regularly scheduled activities, including but not limited to sports and extra-curricular activities, while the child are with that parent.

(e) As the child 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:

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**C. Legal Residence of a Child for School Attendance:**

1. The parties agree that, as allowed by RSA 193:12, II(a)(2) their child's legal residence for school attendance purposes shall be \_\_\_\_\_ (parent's name) residence. See the attached Agreement and Parenting Plan Order Designating School District (NHJB 2763-F). Each parent shall furnish a copy of the Agreement to the school district in which the parent resides.

2. The court orders that the child shall attend school in the \_\_\_\_\_ school district where parent \_\_\_\_\_ (parent's name) resides.

3. The child shall attend school in the school district where the parent with sole residential responsibility resides. Under this plan, that parent is \_\_\_\_\_

4. Other provisions regarding school:

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**D. Transportation and Exchange of the Child:**

1. Transportation arrangements for the child between parents shall be as follows: Halfway point between residences. The grandparents can assist in transportation as required based on availability of the parents (if any work or other obligations that cannot be rescheduled prevent them from attending the exchange).

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

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3. Transportation costs shall be shared as follows:

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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's school records, and both parents are encouraged to consult with school staff concerning the child's welfare and education. Both parents are encouraged to participate in and attend the child's school events.

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

Both parents have equal rights to consult with any person who may provide care or treatment for

the child and to inspect and receive the child'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, including the child's medical needs, as close in time to the emergency circumstance as possible.

**1. Parent-Child Telephone Contact:**

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

- (a) At reasonable times.
- (b) At the following times only: nightly at 7:30pm
- (c) Other: to the other parent and can be made through FaceTime or similar video chat application

**2. Parent-Child Written Communication:**

- (a) Both parents and child 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 and parent(s):  
\_\_\_\_\_  
\_\_\_\_\_

**F. Relocation of a Residence of a Child:**

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. Any time after the filing of a parenting or divorce petition, a parent shall not relocate the residence of a child without a court order unless: 1) relocation results in the residence being closer to the other parent, or 2) relocation is to any location within the child's current school district, or 3) relocation is necessary to protect the safety of the parent or child, or both, as later determined by the court. 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 or the parents have a written agreement to the contrary. At the request of either parent, the court shall hold a hearing on the relocation issue. Either parent may request that the court issue ex parte orders as provided in RSA 461-A:9 to prevent or allow relocation of the child.

2. This parenting plan shall expressly govern the relocation issue as follows:  
In addition to the provisions of RSA 461-A:12, this plan shall include the following relocation details:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**G. Procedure for Review and Adjustment of Parenting Plan:**

1. The parents shall meet as set out below to review this parenting plan and the well-being of the child. Any agreed-on changes shall be written down and shall include the grounds for modification from those listed in RSA 461-A:11. (Found at: <http://www.gencourt.state.nh.us/rsa/html/XLIII/461-A/461-A-11.htm>) Any agreement shall be 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.

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

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

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. They are encouraged to seek the help of a neutral third party to assist them. If the parents are unable to work out the disagreement they may ask the court to decide the issue.

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

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

\_\_\_\_\_

\_\_\_\_\_

**So Ordered:**

Date

12/31/2016

Signature of Judge



LUCINDA V. SADLER

Printed Name of Judge