



JUDICIAL MERIT SELECTION COMMISSION)
)

In the Matter of:)
Candidate for Judge for the 7th)
Circuit Court - Iwaw. SC.)
Angela J. Moss)

WITNESS AFFIDAVIT
FORM

I will appear to testify concerning the qualifications of the above-named candidate and will produce all documents in my possession, if any, which will further develop or corroborate my testimony.

I understand that this written statement and all supporting documentation, if any, must be completed and returned to the Judicial Merit Selection Commission by the deadline for complaints in order for the Commission to hear my testimony, and that the deadline for complaints is **12:00 Noon, Monday, November 2, 2020**. I understand I must be available to testify at the Public Hearing.

In regard to my intended testimony, I will offer information as to the following:

(1) Set forth your full name, age, address, and both home and work telephone numbers.

Wayne Keith Smith SR, 55
9705 Hwy 9 Campbell SC. 29322
864-804-0396 cell
864-560-4118 work

(2) Set forth the names, addresses, and telephone numbers (if known) of other persons who have knowledge of the facts concerning your testimony.

Same as Mr. Hounsberry.

(3) State the nature of your testimony regarding the qualifications of the above-named judicial candidate, including:

(a) specific facts relating to the candidate's character, competency, or ethics, including any and all allegations of wrongdoing or misconduct on the part of the candidate; Page 13 line 11

Page 48 line 20 Judge Fraley JR. November 3rd I will bring it, November 6 page 5 line 20, and Transcript and

(b) specific dates, places, and times at which or during which such allegations took place; Page 48 line 20

April 26th 2016 with Kelly Pope-Black 5 month later, page 4 Bottom 5 Top

(c) names of any persons present during such alleged actions or possessing evidence of such alleged actions; and Judge Fraley order and

Judge Phillip K. Sinclair order, I will bring both or all that I have

(d) how this information relates to the qualifications of the judicial candidate.

The guardian ad litem basic duty is provide the Court with necessary and unbiased information so the Judge can make an informed decision. Angela J. Moss did not do that at all.

- (4) Set forth a list of and provide a copy of any and all documents to be produced at the hearing which relate to your testimony regarding the qualifications of the judicial candidate.

Judge James F Fraley Jr. November 6th order and Judge Phillip K Sinclair order face book, boyfriend statement, friends, and babysitter and left out documents.

- (5) State any other facts you feel are pertinent to the screening of this judicial candidate.

Guaranteed protection and the First, Ninth and Fourteenth Amendments of the United States Constitution. Parental Rights All was violated by Angela J. Moss

(Systemic Racism)

I understand that the information I have provided herein is confidential and is not to be disclosed to anyone except the Judicial Merit Selection Commission, the candidate, and counsel.

WAIVER

I further understand that my testimony before the Judicial Merit Selection Commission may require the disclosure of information that would otherwise be protected by the attorney-client privilege. Therefore, in order that my complaint may be fully investigated by the Commission,

I hereby waive any right that I may have to raise the attorney-client privilege as that privilege may relate to the subject of my complaint. I further understand that by waiving the attorney-client privilege for this matter, I am authorizing the Commission to question other parties, including my attorney, concerning the facts and issues of my case.

John Jordan
Signature

Sworn to me this 26th day of October, 2020

Johnny Jackson L.S.
Notary Public of South Carolina

My commission expires: March 15, 2023

Angela J. Moss
Attorney at Law
P.O. Box 160313
Boiling Springs, SC 29316
(864) 590-2786
afjmoss@gmail.com

November 9, 2020

Judicial Merit Selection Commission
P.O. Box 142
Columbia, SC 29201

RE: Angela J. Moss
Family Court Judicial Candidate
7th Circuit, Seat 1

Dear Chairman Rankin and Members of the Committee:

In response to the complaint of Wayne Keith Smith, Sr. (hereinafter "Complainant") to the Judicial Merit Selection Commission, I would state as follows:

By Order of the Honorable James F. Fraley, Jr., filed November 5, 2015, I was appointed to serve as Guardian ad Litem for the minor child in the case of Steven K. Alukonis v. Wayne K. Smith, Jr. (2015-DR-42-2977). I served as Guardian ad Litem for the child through the final trial of the matter and the Plaintiff's post trial Rule 59e Motion to Reconsider, Alter, Amend and Modify Final Order. At the conclusion of the case at the trial level, my appointment terminated, pursuant to the Final Order of the Honorable Phillip K. Sinclair, filed May 9, 2017.

The case involved a custody dispute between the Defendant/Father of the child and the Plaintiff/Grandfather (maternal) upon the death of the child's mother. At trial, the Court found clear and convincing evidence that the Plaintiff/Grandfather was a de facto custodian of the child and that the Defendant/Father was fit. The Court awarded joint custody to the parties, with the Defendant/Father designated as the primary custodian and the Plaintiff/Grandfather secondary custodian. Other relief was also ordered, including reasonable, specified visitation to the Plaintiff/Grandfather and attorney's fees to the Defendant/Father. The Plaintiff/Grandfather appealed the issues of custody and attorney fees and the Defendant/Father cross appealed, claiming the fee was not adequate.

In the July 22, 2020, opinion, the South Carolina Court of Appeals reversed the issue of custody and granted primary custody to the Plaintiff/Grandfather. The issue of attorney fees was remanded to the trial court and the Court of Appeals also directed the trial court to determine a visitation schedule for the Defendant/Father.

The Complainant to the Judicial Merit Selection Commission, is the paternal grandfather of the child. He was not a party to the action and was not present in the courtroom throughout the entirety of the trial.

As the Commission is well aware, the duties and responsibilities of a Guardian ad Litem are set forth in the South Carolina Code and applicable case law. Overall, a Guardian ad Litem represents and advocates for the best interest of the child while remaining balanced and impartial. I performed these duties to the best of my ability in this matter.

My work in the matter included:

- Reviewing pleadings, Orders, affidavits, private investigator reports, text messages, school records, counseling records, Parenting Fitness Evaluation, Facebook posts, transcripts, photographs, Coroner's report, medical records, dental records, discovery responses and any other information provided to me by the parties and/or their attorneys.
- Interviewing the parties and fifteen (15) additional witnesses. In addition to the Plaintiff/Grandfather, I interviewed five (5) witnesses considered to be Plaintiff/Grandfather's witnesses. I also interviewed the child's two counselors and two of the child's teachers. I considered these four witnesses to be independent witnesses, although they were included on the Plaintiff/Grandfather's witness list. In addition to the Defendant/Father, I interviewed six (6) witnesses considered to be Defendant/Father's witnesses. One of these witnesses was the Complainant.
- Numerous phone calls, texts, emails.
- Made repeated attempts to contact other witnesses suggested by the Defendant/Father and left messages (if possible), but did not receive return calls;
- Traveled to Florida twice. Once, specifically to visit in the Plaintiff/Grandfather's home with the Plaintiff/Grandfather, his wife, his daughters and the child. The second trip to Florida was for depositions. During that trip, I also made another home visit to the Plaintiff/Grandfather's home and observed the child with Plaintiff/Grandfather, his wife and his daughter.
- Visited in the Defendant/Father's home with the Defendant/Father, his oldest daughter, his nephew and the child. Then traveled to Defendant/Father's grandmother's home and visited with the Defendant/Father, the Defendant/Father's grandmother, the minor child and other family members;

- Visited the Defendant/Father, the child and the Defendant/Father's extended family at the Defendant/Father's grandmother's home on another occasion. The Complainant was present;
- Visited with the Defendant/Father, members of his family and the child at a local restaurant. To the best of my recollection, the Complainant was present.
- Repeatedly requested that the parties and/or their trial attorneys notify me of any questions, concerns, complaints and/or suggestions regarding my investigation. I do not recall receiving any such complaints or concerns. I did follow up on any questions or suggestions (such as potential witnesses) received.
- Attending and participating in depositions in South Carolina. Also reviewing deposition transcripts if unable to attend the deposition;
- Attending and participating in de bene esse depositions in the state of Florida;
- Compiled and wrote Reports;
- Maintained a complete file, including notes;
- Participated in the nine (9) day trial of the case. Also, participated in the post-trial Rule 59e motion.

My work in this matter was closely scrutinized by the competent and well-respected attorneys for the parties in this case. At no time was there a motion to have me relieved as Guardian ad Litem in the case. I do not independently recall any complaints from either attorney and my notes and file do not reflect any complaints. I was subject to cross examination at trial, but everything seemed to be in line with usual cross examinations of a guardian ad litem.

Additionally, the morning the trial began, an officer of our local NAACP approached me regarding observing the trial. He had no specific concern or complaint and stated that the family was merely concerned that there could be the potential for some type of racial bias at trial. The Defendant/Father's attorney informed the Court on the record that the morning of trial was the first time the general allegation had been raised to me, himself, or any other attorney in the case. He also went on to state that it was the first time that the Defendant/Father had been made aware of the issue. I certainly had no objection to the observation and welcomed the officer to observe. None of the other attorneys in the matter objected and the Court allowed the observation. To my knowledge, there was never any complaint or allegation of racism regarding my investigation and/or the trial until this present complaint, over 3 ½ years later. I have a good, working relationship and frequent contact with the NAACP officer as he also practices in Family Court. We have spoken numerous times since 2017. He has never raised any concerns to me regarding my work in this case or any other case.

The Complainant references certain page and line numbers in his Witness Affidavit Form, but I am unsure of the actual documents to which he references. There are also allegations/references that are not clear to me. Accordingly, I will address the Complainant's concerns as best I can at this time:

3(a) There was an expedited hearing before Judge James F. Fraley, Jr. on November 3, 2015. I was appointed to serve as Guardian ad Litem at that hearing and a standard Order Appointing Guardian ad Litem was filed on November 5, 2015. This Order consists of three (3) pages. An Order on Expedited Hearing (held on November 3, 2015) was filed on November 6, 2015, and consists of five (5) pages. In the Affidavit Form, the Complainant references "November 6 page 5 Line 20..." Page five (5), paragraph twenty (20) of the Order states, "20. The Guardian ad Litem, Angela Moss, was appointed by separate Order of the Court." The Complainant also references "Page 13 Line 11." As no Order from that hearing has over five pages, I have examined the transcript. Page thirteen (13), line eleven (11) of the transcript of that hearing is as follows: "living in. And that's where he needs to be. If Your." The Complainant also references "Page 48 Line 20." Here again, I reference the transcript, "THE COURT: Now, let me mention one other thing." (Page 48, Line 20). I am unsure of the allegations the Complainant is making against me in this section as I had no knowledge of the case on November 3, 2015, and did not attend that hearing. That was the hearing wherein I was originally appointed to serve.

3(b) See 3(a) above for information regarding "Page 48 Line 20." Regarding the April 26, 2016, hearing before Judge Kelly Pope-Black, this hearing was on Defendant/Father's Motion to Make More Definite and Certain. As the Order from that hearing consists of two (2) pages, I reference the six (6) page transcript of the hearing in addressing the Complainant's reference to "page 4 Bottom 5 Top." The only reference to me on the bottom of page four (4)/top of page five (5) is the following: "THE COURT: Alright, Ms. Richardson- I'm sorry, Ms. Moss, is there anything from the guardian? MS. MOSS: No, Your Honor." (Page 4, Line 25; Page 5, Lines 1-2).

3(c) Regarding the Orders referenced, it is my understanding that Judge Fraley's Order is the Order wherein I was originally appointed to serve as Guardian ad Litem. "Judge Phillip K. Sinclair order" may refer to the Final Order in this case. My work was addressed by Judge Sinclair in that matter and he found that I represented the child's best interests and fulfilled my duties.

3(d) As in each case I serve as Guardian ad Litem, I performed my duties to the best of my ability. Throughout the case, I represented and advocated for the best interest of the child while remaining balanced and impartial. I worked to provide necessary and unbiased information for the Court and repeatedly requested, welcomed, and followed up with any concerns, suggestions, and/or information from the attorneys and parties.

(4) I have previously addressed Judge Fraley's November 6, 2015, Order and Judge Sinclair's Order. I do not understand the remaining allegations in Complainant's number 4.

(5) I am unsure of the Complainant's specific allegations. However, I do not agree with the label of "systemic racism." Race is not an issue to me. The best interests of the child are my concern.

In summary, my work in the case ended over three years ago. There were no efforts to have me removed from serving as Guardian ad Litem during the pendency of the case. In the Final Order, the trial Court found, "The Guardian ad Litem has conducted her investigation pursuant to the requisite statutes and Orders of this Court. She has represented the minor child's best interests; submitted written reports; and otherwise fulfilled her duties, obligations, and requirements imposed by South Carolina Code Ann. Section 63-3-830 *et seq.* and the prevailing case law of this State." (Final Order, page 23). Additionally, to my knowledge, no question of my work in the case was an issue on appeal.

While all custody cases are difficult, due to the circumstances, this was a particularly emotional and difficult case for the parties. I am sympathetic toward all involved and I wish them the best.

I would be happy to provide additional information and/or answer any further questions the Judicial Merit Selection Commission may have. As the allegations against me are somewhat vague, I would appreciate the opportunity to supplement/amend my responses, if needed.

Sincerely,



Angela J. Moss
Judicial Candidate
Family Court
Seventh Circuit, Seat 1

/ajm

JUDICIAL MERIT SELECTION COMMISSION)



In the Matter of:)
Candidate for 7th Circuit Court as a)
Family Court Judge in)
Spartanburg, SC)
Jonathan Kounsberry)

WITNESS AFFIDAVIT
FORM

I will appear to testify concerning the qualifications of the above-named candidate and will produce all documents in my possession, if any, which will further develop or corroborate my testimony.

I understand that this written statement and all supporting documentation, if any, must be completed and returned to the Judicial Merit Selection Commission by the deadline for complaints in order for the Commission to hear my testimony, and that the deadline for complaints is 12:00 Noon, Monday, November 2, 2020. I understand I must be available to testify at the Public Hearing.

In regard to my intended testimony, I will offer information as to the following:

- (1) Set forth your full name, age, address, and both home and work telephone numbers.

Wayne Keith Smith 55 years old
9705 Hwy 9 Campobello SC 29322
864-864-0396 Home + cell
864-560-4118 Work

- (2) Set forth the names, addresses, and telephone numbers (if known) of other persons who have knowledge of the facts concerning your testimony.

Dustin Caldwell - 803-504-7543
Angela Hill Pilgrim - 864-497-8356
Wayne Smith JR - 10115 Hwy 9 Campobello
SC, 29322
Marquitta Smith - 9711 Hwy 9 Campobello
SC, 29322
Deidra Smith - 9705 Hwy 9 Campobello SC,
29322
Keith Smith - 864-308-5520
Shantella Smith - 9705 Hwy 9 Campobello SC 29322
Barbara Smith - 9711 Hwy 9 Campobello SC, 29322

(3) State the nature of your testimony regarding the qualifications of the above-named judicial candidate, including:

(a) specific facts relating to the candidate's character, competency, or ethics, including any and all allegations of wrongdoing or misconduct on the part of the candidate;

NO Integrity, NO honesty, NO courage, NO loyalty
NO fortitude, NO competency, NO ethics
Fraudulent concealment of evidence

(b) specific dates, places, and times at which or during which such allegations took place;

When the 9 day Trial started and ended, his office after the Trial and during the Trial

(c) names of any persons present during such alleged actions or possessing evidence of such alleged actions; and

Wayne Smith JR and Wayne Smith SR
and Marquitta Smith

(d) how this information relates to the qualifications of the judicial candidate.

A Judge is responsible for insuring that the LAW is followed and a Judge is also the finder of facts. Judges must apply rules of law. And Judges should possess certain qualities that will help them serve fairly and honorably.

(4) Set forth a list of and provide a copy of any and all documents to be produced at the hearing which relate to your testimony regarding the qualifications of the judicial candidate. The final order, face book, other boy friend, good friend, left out documents I will bring with me, and statements

(5) State any other facts you feel are pertinent to the screening of this judicial candidate.

Fraudulent concealment of evidence

Leading question, when my son didn't no the answer, Mr. howsberry would give the dates, months. I will bring all that I have which Mr. howsberry said he had subpoena for and didn't provide.

First, Ninth and Fourteenth Amendments Violated by Jonathan howsberry

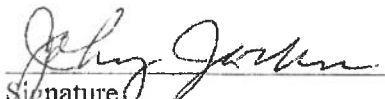
Systemic Racism

I understand that the information I have provided herein is confidential and is not to be disclosed to anyone except the Judicial Merit Selection Commission, the candidate, and counsel.

WAIVER

I further understand that my testimony before the Judicial Merit Selection Commission may require the disclosure of information that would otherwise be protected by the attorney-client privilege. Therefore, in order that my complaint may be fully investigated by the Commission,

I hereby waive any right that I may have to raise the attorney-client privilege as that privilege may relate to the subject of my complaint. I further understand that by waiving the attorney-client privilege for this matter, I am authorizing the Commission to question other parties, including my attorney, concerning the facts and issues of my case.


Signature

Sworn to me this 26th day of October, 2020

 L.S.
Notary Public of South Carolina

My commission expires: March 15, 2025

November 4, 2020

VIA EMAIL & U.S. MAIL
Judicial Merit Selection Commission
P.O. Box 142
Columbia, SC 29202

RE: Witness Affidavit Form
Complainant: Wayne Smith, Sr.

Dear Mr. Chairman, Mr. Vice-Chairman, and Members of the Commission:

Please allow this letter to serve as a response to Wayne Smith, Sr.'s (hereinafter "Senior") Witness Affidavit Form filed with the Commission on November 2, 2020. I believe at the outset it is important to note that at no point in time did I represent Senior in any matter before any Court in South Carolina. I did represent his son, Wayne Smith, Jr. (hereinafter "Junior") in a matter before the Spartanburg County Family Court. As Junior did not file the complaint, I have drafted this response with the understanding that his attorney-client privilege may not have been waived.

I have reviewed the handwritten Witness Affidavit Form provided to your office by Senior and believe that the history of the litigation and my involvement in the same should provide you with the information you have requested.

Before doing so, I also believe that it is important to note that in Fall 2019 Senior made a complaint to the Office of Disciplinary Counsel regarding my representation of his son (some 2 years after said representation was concluded), and that the complaint he made was virtually the same as the affidavit he filed with the Commission. It my understanding that ODC reviewed the complaint and a response similar to the one provided here and dismissed the complaint. Senior then appealed the decision to dismiss the complaint and the matter was reviewed by Commission on Lawyer Conduct, who upheld the decision of ODC.

By way of background, I represented Senior's son, Junior, in the matter of Steven K. Alukonis v. Wayne K. Smith, Jr., Case No.: 2015-DR-42-2977 which was pending in the Spartanburg County Family Court for the Seventh Judicial Circuit. During my representation of Junior, I kept him informed regarding the litigation and I did not receive any complaints or objections from him regarding my services as his attorney.

This matter was a custody dispute between a third party (the maternal grandfather who is a chiropractor from Cocoa Beach, Florida) and the biological father, Junior (who at the time was an hourly employee at a plant in Rutherfordton, North Carolina).

The impetus to this action was the death (by suicide) of the biological mother, Katelyn Marie Alukonis, which occurred sometime in August 2015.¹ Following the death of the biological mother, Junior maintained custody of the minor child, and retained J. Patrick Anderson, of the Spartanburg County Bar, to represent him in a Paternity and Name Change action in the Spartanburg County Family Court, which was filed on August 28, 2015 (some 13 days after the death of the biological mother). Prior to Junior filing the Paternity and Name Change Action in the Spartanburg County Family Court, the maternal grandfather (hereinafter "Dr. Alukonis") filed a Guardianship Action in the Florida Probate Court seeking to be named the guardian of the minor child. Junior hired a Florida attorney to represent him in that matter, but it was ultimately dismissed by Dr. Alukonis, who then hired John B. White, Jr., and Allison P. Dunham, of the Spartanburg County Bar, and filed a Custody Action in the Spartanburg County Family Court: Steven K. Alukonis v. Wayne K. Smith, Jr. Case No.: 2015-DR-42-2977.

A Temporary Hearing was held in the above-referenced matter on November 3, 2015, and at that time Junior was still represented by J. Patrick Anderson. The Temporary Order gave, inter alia, custody to Dr. Alukonis and gave Junior visitation of the minor child consisting of one (1) weekend per month. Following the November 3, 2015 Temporary Hearing, Junior hired Alyssa H. Richardson of the Richland County Bar, to represent him in the above-referenced matter, and she made her Notice of Appearance on December 16, 2015. After filing her Notice of Appearance, Ms. Richardson filed a Motion to Make More Definite and Certain requesting that Dr. Alukonis expound on the allegations set forth in his Complaint. Ms. Richardson also filed Junior's Answer and Counterclaim on February 3, 2016. Dr. Alukonis filed his Reply on March 23, 2016.

Following the hearing on her Motion to Make More Definite and Certain, Ms. Richardson sought to involve local co-counsel. My notes reflect that Ms. Richardson first contacted me about acting as co-counsel in this matter on May 6, 2016. Junior retained my services in July 2016. Over the next couple months, I reviewed the file and became familiar with the complexities of the matter. I did not make an appearance in this matter until August 11, 2016.

Mediation occurred on September 16, 2016. I attended Mediation with Junior, and Ms. Richardson appeared telephonically. Mediation lasted the majority of the day and resulted in an impasse. At the conclusion of Mediation, all the attorney's agreed that the matter should be set for a five-day trial.

Prior to and following Mediation, each side engaged in significant discovery, consisting of both formal discovery requests and subpoenas. During the litigation, Dr. Alukonis also engaged the services of a nationally renowned psychological expert, Jonathan Gould, Ph.D., and a computer forensic expert to retrieve information from the deceased biological mother's phone.

Following Mediation, Dr. Alukonis' attorneys indicated that they wanted to take videotaped de bene esse depositions of all of his witnesses located in Florida, thirteen in total

¹ In addition to being the impetus for the litigation, this event caused remarkably complex evidentiary issues and made the application of the "Dead Man's" statute an almost commonplace aspect of the matter.

(which included family members, his adult children, and wife), as they would be unavailable for trial (although, no trial had been set in the matter). Ms. Richardson and I opposed taking the de bene esse deposition of the thirteen witnesses as no trial had been set in this matter, so it was unclear to us why Dr. Alukonis' witnesses would not be able to testify on his behalf.

At the request of Dr. Alukonis, the Court scheduled a Pre-Trial Hearing and Conference for November 21, 2016. At the hearing, the Court determined that Dr. Alukonis could take videotaped de bene esse depositions of ten of the thirteen witnesses. Dr. Alukonis' attorneys also stated that the matter would have to be set for a ten-day trial. Ms. Richardson also filed a Motion with the Court to be relieved as Junior's attorney, which was granted. The final hearing in this matter was also scheduled for March 20—24, 2017, and March 27—31, 2017.

As all of the witnesses, subject to the videotaped de bene esse depositions, resided in Florida, I had to go through the process of issuing and domesticating the ten document subpoenas under the Uniform Deposition and Discovery Act and coordinate the proper service of the same under the Act and Florida Civil Procedure. These subpoenas were issued to a several teachers, two schools, a mental health provider, a soccer program, and a counseling center.

From January 15 to January 18, 2017, I traveled to Florida and participated in seven videotaped de bene esse depositions over the course of two days. Dr. Alukonis did not depose all of the witnesses he requested the ability to depose. Junior did not attend the depositions as we believed it would save him the costs and expenses of the same.

We returned to South Carolina from the depositions, both sides had to timely file Motions to address the objections raised during the depositions. This required not only drafting the Motion and conducting legal research on the issues, it also required the review of the deposition transcripts. Prior to filing the Motion addressing the objections raised during the depositions, I also filed a Motion to Amend Junior's Answer and Counterclaim to correct the timeline of facts previously alleged and to sequester the witnesses in effort to prevent fact witnesses from reviewing the deposition transcripts prior to the trial. A hearing on this Motion was held on February 9, 2017, and the Court granted Junior the ability to amend his Answer and Counterclaim and sequestered all of the witnesses (except expert witnesses), including those whose testimony was taken by de bene esse deposition.

I filed a Motion to address the objections raised during the de bene esse depositions on February 17, 2019, and a hearing was held on February 24, 2017. At the hearing on the Motion, the Court sustained the majority of our objections, but denied our general objection and Motion *in Limine* with regard to one witness (I would note, however, that during the trial the Court changed its position on that witness' testimony and gave the same little to no weight, as I renewed my Motion *in Limine* prior to the de bene esse testimony). The Amended Answer and Counterclaim was filed on February 27, 2019.

The Guardian ad Litem filed a report on March 6, 2017, and I filed a Motion to Compel Discovery Responses on March 8, 2017. Dr. Alukonis responded to the discovery request on

March 15, 2017. A hearing on the Motion to Compel was held on March 16, 2017, and the Court denied the Motion to Compel, but the issue was moot as Dr. Alukonis responded to the discovery requests.

In preparation for the final hearing, as we were unable to hire our own testifying expert due to financial issues, we hired a consulting expert to assist with the cross-examination of Dr. Gould. I also required Junior to deposit a trial retainer in the amount of approximately \$15,000.00 to cover the estimated costs of the ten-day trial. Also, during the entire litigation, Junior received monthly billing statements from our firm. During preparation for the final hearing, Junior, Senior, and me had conversations regarding whether to settle the matter. Some of the conversations were emotional given the facts and circumstances of the litigation.

The final hearing in this matter began on Monday, March 20, 2017. On the first day of trial all of the lawyers and the Court were informed that the President of the local chapter of the NAACP would be observing the trial (and he observed the majority of the trial). During the trial, as previously ordered by the Court, the fact witnesses were sequestered, meaning that Senior did not appear in the courtroom until he was called as a witness and had no direct knowledge of what witnesses were called or what exhibits were presented to the Court.

Over the course of the trial, Dr. Alukonis called between 17-18 witnesses, including the witnesses whose testimony was presented by de bene esse depositions, and Junior called approximately 7 witnesses, which included a representative of a local college where the biological mother attended school in effort to demonstrate the amount of time Junior alleged the biological mother resided in South Carolina. I would also note that, during cross-examination, Junior admitted on the record that I was unaware of information crucial to his case (e.g., the fact that he and his current girlfriend/finance would not be living together and that she and their minor child would be living with her parents and that Junior would be living at his family homestead). The Guardian ad Litem presented her report and the attorneys each cross-examined her on the same. We tried to reach a settlement agreement during for a portion of one day during the final hearing but were unable to do so. The final hearing ended on Thursday, March 30, 2017. A total of 58 exhibits were entered into the record during the trial, with Dr. Alukonis entering 32 exhibits and Junior entering 26 exhibits.

On April 7, 2017, the Court held a chamber's conference to issue its ruling on the matter, some two weeks after the last day of the final hearing. At the beginning of the conference, the Court noted that it took 67 pages of handwritten notes during the trial, and that the case contained very interesting and complex issues. The Court ruled that Junior and Dr. Alukonis would have joint custody of the minor child, with Junior being designated the primary custodian. The Court arrived at this decision by determining that there was clear and convincing evidence presented that compelling circumstances existed that warranted Dr. Alukonis being declared a de facto custodian. The Court also determined that no evidence was presented to demonstrate that Junior was an unfit parent and, therefore, his constitutional right to parent his child could not be overcome. The Court set forth Dr. Alukonis' visitation schedule (which proved difficult as he lives in Florida), which consisted of two parts: the first dealt with summer and fall 2017, and the second dealt with January

2018 forward. The Court also ordered that Dr. Alukonis have a standard holiday visitation schedule, save for the summer holidays, which the Court designated separately. In addition to the determinations of custody and visitation, the Court awarded Junior \$10,000.00 in attorney's fees and costs, after considering the factors set forth in *Glasscock v. Glasscock* and *E.D.M. v. T.A.M.*

During this conference, the Court instructed the attorneys not to discuss the ruling with their respective clients until the Order had been issued by the Court—the attorneys were only allowed to inform their respective clients that the Court had issued its ruling. I took extensive notes during this conference. I was instructed by the Court to draft the proposed order and to provide the same to opposing counsel and the Guardian ad Litem for their review and comment. In drafting the order, I was instructed to include standard language, such as Judge Brown's Parental Guidelines, Restraining Orders, and Holiday visitation schedule. My notes also reflect that the Court requested that it be provided with a WORD version of the proposed order.

I drafted the order as instructed and sent the same to opposing counsel and the Guardian ad Litem on April 17, 2017. Opposing counsel and the Guardian ad Litem provided their responses to the proposed order on approximately April 27, 2017, and May 1, 2017. After incorporating the requested changes, the proposed order was submitted to the Court in WORD version on a CD on May 2, 2019.

We received a filed, clocked copy of the Final Order from the Court on May 9, 2017, and I had an office conference with Junior and a family member on that same day regarding the Final Order. I also had an additional meeting with Junior and Senior on May 12, 2019. During this meeting, I, along with the managing partner in our office, went over the Order with Junior and Senior. I explained that the Order was what the Court ordered based on the evidence and testimony presented at the trial. I also explained that the Order contained both a procedural history and the findings of fact and conclusions of law, but that those things were not the same, as well as explaining that the Order was drafted based on the Court's instruction which included the use of standard provisions. During the meeting Senior expressed some anger over the fact that the Court had awarded joint custody to Dr. Alukonis. During that meeting, I asked Junior to sign a document that stated he acknowledged that I would not be representing him in any appeals as our firm does not regularly handle appellate matters. At that time no appeal had been filed, but Senior indicated that he wanted to appeal the order despite my advice against doing so – particularly since Junior received a favorable decision. I included some suggestions for appellate attorneys and notice of the deadlines by which they would have to file the requisite documents with the trial court and the appellate court.

On May 18, 2017, Dr. Alukonis filed a Motion to Reconsider and a hearing was set for June 2, 2017. As my representation of Junior had ended under the terms of the prior Agreement to Employ Counsel, Junior executed a new Agreement to Employ Counsel and paid a retainer of \$6,000.00 for me to represent him during the Motion to Reconsider hearing. The Court issued its Order on the Motion to Reconsider on June 23, 2017, only partially granting the Motion and denied the requests to change custody and declare that Junior was an unfit parent. Following the issuance of the Order, Dr. Alukonis hired appellate counsel who filed a Notice of Appeal, Motion for

Supersedes, and Motion for Substitution of Counsel with the South Carolina Court of Appeals on June 26, 2017. Again, under the terms of the Agreement to Employ Counsel and the prior acknowledgment signed by Junior my representation in this matter ended with the issuance of the Order regarding the Motion to Reconsider. Once we ran our final billing in this matter and received the attorney fee payment from Dr. Alukonis, it is my understanding that Junior received a refund for the remaining funds in his trust account.

It is my understanding that Junior hired Meliah Bowers Jefferson to represent him in the appeal. I spoke with Ms. Jefferson on July 5, 2017, and gave her what documents she requested from me. We also agreed that she would be substituted in as Junior's appellate counsel, and I drafted and sent her a Motion for Substitution of Counsel (which I signed on July 5, 2017, and she and Junior signed on July 24, 2017). It is also my understanding that Ms. Jefferson made an appearance in the appellate matter on July 5, 2017, and requested an extension to respond to the Motion to Supersede, which was granted. The Court of Appeals denied the Motion for Supersede and issued an Order Substituting Counsel on August 16, 2017. With regard to the appeal, I have no information beyond what I provided as Ms. Jefferson took over representing Junior on July 5, 2017. I am aware that the Court of Appeals issued an opinion in this matter on July 22, 2020.

I hope that this history of the litigation and my representation of Junior addresses the concerns raised by Senior in his Witness Affidavit Form provided to the Commission. If you require any additional clarification or more information, please do not hesitate to contact me.

With highest regards, I am

Very respectfully yours,



JONATHAN W. LOUNSBERRY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)	IN THE FAMILY COURT
)	OF THE SEVENTH
COUNTY OF SPARTANBURG)	JUDICIAL CIRCUIT
)	
)	
STEVE ALUKONIS,)	
)	
Plaintiff,)	TRANSCRIPT OF RECORD
)	2015-dr-42-2977
vs.)	
)	
WAYNE SMITH, JR.,)	
)	
Defendant.)	

November 3, 2015
Spartanburg, South Carolina

B E F O R E:

HONORABLE JAMES F. FRALEY, JR., Judge.

A P P E A R A N C E S:

ALLISON DUNHAM, ESQUIRE
For Plaintiff

J. PATRICK ANDERSON, ESQUIRE
For Defendant

Julie A. Ashbrook,
Family Court Reporter
Thirteenth Judicial Circuit

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>WITNESS</u>	<u>PAGE</u>
ARGUMENT OF ISSUES By Ms. Dunham	4
ARGUMENT OF ISSUES By Mr. Anderson	19
ORDER OF THE COURT	47
CERTIFICATE OF REPORTER	51

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

1 STEVE ALUKONIS VS. WAYNE SMITH, JR. 2015-DR-42-2977

2 THE COURT: Have the parties by chance reached a
3 compromise?

4 MS. DUNHAM: No, Your Honor. I didn't know
5 opposing counsel was on the case until --

6 THE COURT: All right.

7 MS. DUNHAM: -- I arrived this morning.

8 THE COURT: Y'all may have a seat. I need just a
9 moment before we get started.

10 MS. DUNHAM: Thank you.

11 THE COURT: Everybody ready to go forward? Ms.
12 Dunham?

13 MS. DUNHAM: Yes, sir.

14 MR. ANDERSON: Yes, sir.

15 THE COURT: You may be proceed.

16 MS. DUNHAM: Do you have a financial declaration?

17 MR. ANDERSON: I do.

18 MS. DUNHAM: Your Honor, this is set for
19 30 minutes.

20 THE COURT: All right.

21 MS. DUNHAM: If I could have a second. I'd like
22 to look at this.

23 THE COURT: Yes, ma'am.

24 MS. DUNHAM: Thank you. May it please the Court.
25 Your Honor, we're here today pursuant, I believe, of

1 this Court's order as filed on October 21st, 2015,
2 setting this for an expedited hearing. The Defendant
3 was served on October 25th of 2015, at 9:45 o'clock a.m.

4 ~~And so I believe we've met the requirement for service~~ (Tues)
5 at this time.

6 We're before you today because Mr. Steven
7 Alukonis, who is the maternal grandfather, is seeking
8 custody of this child, or in the alternative he is
9 seeking visitation. This matter is not new to the
10 court. And I don't know if the clerk's office pulled
11 the corresponding file. That case number was
12 2015-DR-42-2397. 2015-42-2397. And Your Honor may or
13 may not want to review. A cursory review of opposing
14 party's packet shows that they have, in fact, included
15 an order from that hearing that allowed for paternity,
16 declaring Mr. Smith the father and a name change.
17 That's really important.

18 THE COURT: A name change for the child?

19 MS. DUNHAM: That's right. I have provided you a
20 transcript of that hearing, as well as opposing counsel.
21 I would inform the Court that Mr. Smith has already
22 perpetrated a fraud in the court as of September 3rd of
23 2015. A review of that which showed that he failed to
24 inform the Court that at that time there was a pending
25 action in Florida, filed by Mr. Alukonis, seeking

Record
from
work

1 paternity and custody. That has since been dismissed.
2 He failed to inform the Court that.

3 He also informed the Court in his sworn
4 testimony, since he didn't include a financial
5 declaration in that file, nor an affidavit, that he had
6 been in the child's life since the child's birth. The
7 child was born in Spartanburg and shortly thereafter
8 moved to Florida. I am referring to page five of that
9 transcript, question nine --

10 THE COURT: One moment, Ms. Dunham.

11 MS. DUNHAM: Yep.

12 THE COURT: Let's back up just a minute.

13 MS. DUNHAM: Okay.

14 THE COURT: Is this the transcript on top?

15 MS. DUNHAM: It is.

16 THE COURT: Okay. That hearing was brought by
17 Wayne Smith?

18 MS. DUNHAM: Yes.

19 THE COURT: Who was the dad?

20 MS. DUNHAM: Yes.

21 THE COURT: And who was the defendant?

22 MS. DUNHAM: No one because the mother had killed
23 herself shortly before that.

24 THE COURT: So it was basically an ex parte
25 proceeding?

1 MS. DUNHAM: That is correct.

2 THE COURT: All right, go ahead.

3 MS. DUNHAM: So on page five of that transcript,
4 question nine.

5 The question is: "Have you been involved
6 With that child since day one?

7 'ANSWER: Yes, sir.

8 'Have you served as a father to that
9 child since day one?

10 'Yes, sir."

11 Completely false. So my client dismissed his
12 action in Florida and filed this one today. So I think
13 you need to look at that. The child's name is [REDACTED].
14 He is five. He is beautiful. I have no doubt you'll
15 find pictures here and in our packet. His change has --
16 his name has since been changed from [REDACTED] to
17 [REDACTED]

18 THE COURT: May I back you up just a minute?

19 MS. DUNHAM: Sure.

20 THE COURT: Was Mr. Alukonis aware of the
21 Spartanburg County hearing that was held in September --

22 MS. DUNHAM: Your Honor --

23 THE COURT: -- before the hearing was heard?

24 MS. DUNHAM: He was aware that the hearing had
25 been filed subsequent to his action in Florida.

Why does he have to be notified

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Okay.

MS. DUNHAM: And he has subsequently dismissed the action in Florida and we are proceeding here.

THE COURT: But did he get any kind of notice of the Spartanburg hearing back in September?

MS. DUNHAM: Not to my knowledge.

THE COURT: Okay. All right.

MS. DUNHAM: Okay. So here we find ourselves today and here is what's going on. Unfortunately for my client, who is a chiropractor who has lived in Florida, he lives in Cocoa Beach with his family. His daughter, Katelyn, was the mother. Katelyn gave birth to [REDACTED] here in Spartanburg and subsequently moved back to Cocoa Beach. Unfortunately his daughter suffered some issues. He -- his daughter lived with her -- with him over the past five years of this child's life. She did live for a period of time in South Carolina and then returned to Cocoa Beach. He has been the primary caregiver and financial support for this child the child's entire life.

I think it's very important that you note, not only in the order that opposing counsel gave you in his packet, but in this hearing. On July 1st, 2010, Mr. Smith says that he got a paternity test, 2010. Okay? And have known since 2010 that he was the father of the

1 child. He waited until September 3rd of 2015 to have
2 himself declared the father, subsequent to the mother's
3 demise.

4 I have included in my packet for you, in addition
5 to my client's affidavit and that of the family of
6 [REDACTED], the maternal side of the family, the medical
7 records, the school records for this child from Florida.
8 I have also included an affidavit from the mother's
9 therapist where the mother was treated regularly in
10 Cocoa Beach, Florida. And the issues that the mother
11 had to deal with and what that therapist witnessed
12 because of Mr. Smith's lack of involvement in his
13 child's life.

14 These records go through last year. Some are
15 school records, daycare records, pediatric records and
16 the therapist records. Not to mention the soccer
17 coach's affidavit where this child was living in Cocoa
18 Beach with his grandfather, where he was taking care of
19 the child regularly. Paying for school, paying for
20 soccer, paying for summer. Taking the child to the
21 doctor. Not Mr. Smith.

22 But here's what's even more important. After
23 perpetrating the fraud on the Court on September 3rd,
24 okay, getting the child's name changed, telling poor
25 Judge Sinclair that he had been the father of the year

1 and been in this child's life since day one --

2 THE COURT: Was there a guardian in that case?

3 MS. DUNHAM: Yes. It appears they called Chris
4 Kennedy out of the hallway and had him appointed at the
5 hearing. Okay?

6 So after that fiasco, we hired a private
7 investigator because I know Your Honor knows that
8 somebody's not telling the truth. So we were going to
9 be sure that we proved to you where the child's actually
10 been staying since August. Not with Mr. Smith.
11 Mr. Smith lives with his girlfriend. The private
12 investigator report shows that Mr. Smith has dropped the
13 child off at the child's -- at the great grandmother's
14 house.

15 The private investigative report that has cost my
16 client \$10,000, shows that on every evening and
17 afternoon when the private investigator was over there,
18 Mr. Smith was nowhere to be found, even on his days off.
19 He drove right by his great grandmother's house and went
20 hunting or did something else. Someone other than
21 Mr. Smith has been taking ~~care of~~ to school. Whether
22 it's been his grandmother or third party. And I would
23 note there's a whole gallery of people sitting over here
24 on his side of the courtroom. Someone in that group,
25 not him, is the one taking care of his child.

1 Also, I think you ought to take a real good
2 gander at his proposed parenting plan because this
3 speaks volumes. Let's look at it.

4 THE COURT: Where is it?

5 MS. DUNHAM: I don't know. Somewhere in their
6 packet. I pulled it out.

7 THE COURT: Hold on just a minute.

8 MS. DUNHAM: I'll hand you mine.

9 THE COURT: I've got to find it.

10 MS. DUNHAM: Okay.

11 THE COURT: Give me just a moment.

12 MS. DUNHAM: Sure.

13 THE COURT: I think it's tab two.

14 MR. DUNHAM: I don't have any tabs on mine, sir.

15 THE COURT: All right, I've got it.

16 MS. DUNHAM: Let's look at it. And I don't have
17 any responsive pleadings or return to motion. So before
18 he gets up to make his argument, I'm taking the position
19 he doesn't get any perspective relief. Do you see the
20 parenting plan?

21 THE COURT: Yes, ma'am.

22 MS. DUNHAM: What does it say? Sole custody.
23 What else does it say? Nothing. Why is that important?
24 Because he has denied my client the opportunity to see
25 this child since the child came up here in August. Mom

1 killed herself. He has reached out to Mr. Smith
2 repeatedly in text messages, which are in your packet,
3 asking to see the child. And all the response he gets
4 is I'll get in touch with you maybe some other time,
5 blah, blah, blah.

6 And even in the courtroom today he doesn't even
7 bother to say whether or not Mr. Alukonis should get to
8 see the child that he's been raising. That's what we're
9 dealing with here today. This speaks for itself. Okay?
10 So between the text messages where they've denied my
11 client contact, this child did not even get to go to his
12 mother's funeral despite his aunt's efforts. She went
13 to the school. They have reached out to them
14 personally, by phone and text message and have been
15 completely stonewalled.

16 What we have here is a man, who after the mother
17 died took the child, has dumped him off on the great
18 grandma and is letting someone else raise him. He
19 doesn't even live there. To make it more interesting,
20 the great grandmother is the caregiver for someone else
21 residing in the home. So her efforts are to take care
22 of that person.

23 We have multiple different people taking the
24 child to and from school. It is a great irony to me
25 that Mr. Smith, after perpetrating a fraud on the Court

1 across the hall, would take a child, dump it off on
2 another relative and deny the person that's been raising
3 the child, even visitation.

4 We are asking for sole custody effective
5 immediately. To return this child to the church, the
6 soccer team, the daycare, the school, the pediatrician
7 and the therapist that he knows and his family in Cocoa
8 Beach and his bedroom that he was in until August.

9 All of that is in the packet. It's a beautiful
10 house with a beautiful room that that child's been
11 living in. And that's where he needs to be. If Your
12 Honor is not going to do that, we need a guardian today.
13 We need another hearing immediately. Thanksgiving is
14 upon us and Christmas is upon us. We could be back in
15 here, if Your Honor allows us to, if you're not gonna
16 give us custody before Christmas. I believe that the
17 guardian is going to find that everything I'm telling
18 you is absolutely true. We've got all the backup for
19 it.

20 I even have the child, I have all of his work
21 products from, you know, the school year. Here it is.
22 Okay? Right here. (Indicating.) I'm going to show it
23 to the guardian. So that this child can transition back
24 to his family, if we have to, over the Christmas break,
25 and he can start next semester where he's supposed to

1 be.

2 THE COURT: Let me ask you just a couple of quick
3 questions.

4 MS. DUNHAM: Yes, sir.

5 THE COURT: Were mother and father ever married?

6 MS. DUNHAM: No.

7 THE COURT: Okay. And the child was born in
8 Spartanburg. Was mom and dad living together at the
9 time of birth of the child?

10 MS. DUNHAM: No.

11 THE COURT: Okay.

12 MS. DUNHAM: And, in fact --

13 THE COURT: Why was mother in Spartanburg?

14 MS. DUNHAM: Not very long. A few weeks and
15 returned back.

16 THE COURT: Did she live here at the time?

17 MS. DUNHAM: She -- Your Honor, she's been back
18 and forth between Spartanburg and Florida. But I'll
19 tell you this, I mean, I only got a cursory glance at
20 this affidavit, which by the way is single paged. It
21 does meet the requirements. It's supposed to be double
22 spaced.

23 THE COURT: Okay. Well, let me ask you some
24 questions.

25 MS. DUNHAM: Sure.

1 THE COURT: So how long was mom and baby in
2 Spartanburg?

3 MS. DUNHAM: How long?

4 MR. ALUKONIS: Six weeks for trial.

5 MS. DUNHAM: Six weeks.

6 THE COURT: All right, just speak through your
7 lawyer. Okay. And then mom and baby went to Florida.

8 MS. DUNHAM: Yes.

9 THE COURT: And moved in with grandfather?

10 MS. DUNHAM: Right, were living down there.

11 THE COURT: Okay.

12 MS. DUNHAM: And they were here for a period in
13 2010 where they did not live together. I mean, he
14 didn't live with her. I'm looking at his own affidavit.
15 It's in here.

16 THE COURT: Okay. I'm trying to get the
17 timeline.

18 MS. DUNHAM: All right.

19 THE COURT: So if you'll help me with that.

20 MS. DUNHAM: I'm trying.

21 THE COURT: Okay.

22 MS. DUNHAM: And then she left at the end of
23 2010.

24 THE COURT: All right, hold on. Let me ask the
25 question.

1 MS. DUNHAM: Okay.

2 THE COURT: In the first year of the child's life
3 the child was with grandfather and mom in Florida?

4 MS. DUNHAM: That's right.

5 THE COURT: How many times did the child see dad
6 during that first year?

7 MS. DUNHAM: Very little to none.

8 THE COURT: Less than five --

9 MS. DUNHAM: It's all in the affidavit.

10 THE COURT: -- times or more than five times?

11 MS. DUNHAM: Less than five times.

12 THE COURT: All right. What about the second
13 year, more or less --

14 MS. DUNHAM: Same.

15 THE COURT: -- than five times?

16 MS. DUNHAM: Same.

17 THE COURT: Third year?

18 MS. DUNHAM: The child -- the same. The Child
19 came back up here in 2010 with his mom, lived in
20 separate residences. He says they --

21 THE COURT: Wait a minute. Who lived in separate
22 residences?

23 MS. DUNHAM: The mother and the dad.

24 THE COURT: In 2010?

25 MS. DUNHAM: Right. Before he was -- I'm just

1 going by this --

2 THE COURT: Well, that's just shortly after the
3 child was born.

4 MS. DUNHAM: Right. Okay. I'm going by his
5 affidavit. Okay?

6 THE COURT: All right. So how, how was it
7 exactly that the child got back to dad? There was
8 something about a birthday party.

9 MS. DUNHAM: She -- okay. She came up here in
10 August -- are you talking about 2015?

11 THE COURT: I'm talking about how dad now has the
12 child. How did he get the child?

13 MS. DUNHAM: Okay. She came back up here in 2015
14 in August. She was here for a very short period of
15 time.

16 THE COURT: For what purpose?

17 MS. DUNHAM: And killed herself.

18 THE COURT: Do you know?

19 MS. DUNHAM: I don't know, Judge.

20 THE COURT: Okay.

21 MS. DUNHAM: I mean, she just moved back up here.

22 THE COURT: Okay.

23 MS. DUNHAM: When she killed herself he went and
24 got the child.

25 THE COURT: Grandfather did.

1 MS. DUNHAM: He did.

2 THE COURT: Dad did, okay.

3 MS. DUNHAM: Okay. And then gave the child to
4 the great grandmother. He hired Mr. Anderson to bring a
5 paternity action and a name change. My client filed an
6 action in Florida for custody. They didn't tell anybody
7 up here that that action was pending. He hired a lawyer
8 in Florida.

9 THE COURT: Didn't name him a party?

10 MS. DUNHAM: No. Okay? And --

11 THE COURT: And did grandfather -- and
12 grandfather, I assume just from what you said earlier,
13 attempted to get the child to take the child to mom's
14 funeral.

15 MS. DUNHAM: Yes.

16 THE COURT: And that was not allowed.

17 MS. DUNHAM: No. And we're not sure that the
18 child knows his mother is deceased.

19 THE COURT: Okay.

20 MS. DUNHAM: So I hope that's the case, but
21 here's what's happening. Not only -- I mean, this
22 happened in August. Okay? We're only in November. In
23 the last 90 days this child has lost his mother and not
24 been allowed to see anybody else that he knows in family
25 that raised him. So --

1 THE COURT: I follow you.

2 MS. DUNHAM: Yep.

3 THE COURT: All right. Anything else before I
4 hear from Mr. Anderson?

5 MS. DUNHAM: No. I mean, it's all in there.

6 THE COURT: Mr. Anderson, you may respond to all
7 that.

8 MR. ANDERSON: Thank you, Your Honor. Well, we
9 agree on one thing and that is the appointment of a
10 guardian ad litem to look into this matter and to get
11 back to the Court and the parties as soon as possible.
12 We're not opposed to another hearing either. We've just
13 got to blame this agreement on some facts here, Your
14 Honor. We're not asserting the position that my client
15 has been with the child every single day of that child's
16 life since he was born, but we are asserting a position
17 that he has been involved in the child's life.

18 THE COURT: Let me get your timeline. Okay?

19 MR. ANDERSON: Uh-huh.

20 THE COURT: Does he agree the child moved back to
21 Florida within a month or so after the child was born?

22 MR. ANDERSON: Your Honor, my client's position
23 is that the child was in South Carolina for almost a
24 year before he went back to Florida and --

25 THE COURT: All right. So what was his

1 relationship with that child during that year?

2 MR. ANDERSON: It was essentially a relationship
3 that was sexual in nature. Obviously the child was born
4 because of that. They were friends prior to the child
5 being conceived, and they continued to essentially be
6 friends and had a co-parenting --

7 THE COURT: My question --

8 MR. ANDERSON: -- arrangement.

9 THE COURT: Okay. So he saw the child daily for
10 the first year?

11 MR. ANDERSON: Very regularly, Your Honor, yes,
12 sir.

13 THE COURT: What's that mean? Can you tell me
14 what you're talking about? I don't know what regularly
15 means.

16 MR. ANDERSON: Four or five days a week, Your
17 Honor. It was very much a co-parenting relationship.

18 THE COURT: All right. What about the second
19 year? Is that when the child moved to Florida,
20 according to him?

21 MR. ANDERSON: Yes, sir.

22 THE COURT: Okay. So how many times did he see
23 the child the second year?

24 MR. ANDERSON: He kept close contact with the
25 child's mother. I don't believe he saw the child while

1 the child was actually in Florida.

2 THE COURT: At all?

3 MR. ANDERSON: I don't believe so. Yes, sir.

4 THE COURT: So until mom moved back up here in
5 2015, how many times had he seen the child? I guess,
6 that would be about for three or four years.

7 MR. ANDERSON: Your Honor, she, according to my
8 client, moved back and forth between Florida and South
9 Carolina, Spartanburg County particularly three times.

10 THE COURT: Did he ever go to Florida?

11 MR. ANDERSON: No, sir.

12 THE COURT: How much child support did he pay?

13 MR. ANDERSON: None, Your Honor.

14 THE COURT: None.

15 MR. ANDERSON: Correct.

16 THE COURT: Is he working?

17 MR. ANDERSON: He is. He works full time, makes
18 very good money.

19 THE COURT: Has he worked for several years?

20 MR. ANDERSON: He's worked over ten years?

21 MR. SMITH: Over ten years.

22 MR. ANDERSON: Over ten years at Trelleborg.

23 Nine years --

24 THE COURT: May I ask --

25 MR. ANDERSON: -- at Trelleborg.

1 THE COURT: -- why he didn't pay support?

2 MR. ANDERSON: Well, it was a situation where the
3 child was back and forth. Him and mother had that
4 agreement and he contributed. Now, granted he didn't
5 keep records. He's not a lawyer, he's a layperson.
6 Back when Ms. Dunham was appointed, not to go off in a
7 tangent, but he never filed for paternity because he
8 didn't see the need to. Everything was working out
9 fine. And again --

10 THE COURT: I'm gonna do like I did Ms. Dunham,
11 get a time -- your story of the timeline, then I'm gonna
12 let you tell me what you want to.

13 MR. ANDERSON: Yes, sir.

14 THE COURT: Okay?

15 MR. ANDERSON: Yes, sir.

16 THE COURT: All right. So why did -- does he
17 know why mom came back here in 2015?

18 MR. ANDERSON: I believe she had a job
19 opportunity, Your Honor. I don't have a ton of details.
20 I don't know if she necessarily got along with her
21 father that well, but she moved back up here to work.
22 She had worked here before full time.

23 THE COURT: And when mom passed, how did he get
24 the child?

25 MR. ANDERSON: I believe the child was taken to

1 his grandmothers. As you can see, the family is here.

2 THE COURT: A lot of family support.

3 MR. ANDERSON: Yes, sir. Very tight knit. Very
4 tight-knit family. He got the news while he was at
5 work. It's not a situation where it was just a passive
6 moment. He was devastated because he cared for her.
7 They weren't married and it wasn't a traditional
8 relationship, but he cared for the woman, Your Honor.
9 So at that point he basically goes home. The child is
10 at grandmothers and they worked through it as best you
11 can with a five year old, basically.

12 THE COURT: Well, where did they pick up the
13 child?

14 MR. ANDERSON: I believe --

15 MR. SMITH: My sister picked him up.

16 MR. ANDERSON: His sister, Your Honor, picked him
17 up. And again --

18 THE COURT: From where?

19 MR. SMITH: ~~New Prospect Elementary.~~

20 MR. ANDERSON: ~~New Prospect Elementary,~~ Your
21 Honor.

22 THE COURT: So the child was at school when mom
23 committed suicide?

24 MR. ANDERSON: Yes, sir. The child's been
25 enrolled and in school, yes, sir.

1 THE COURT: In Spartanburg County?

2 MR. ANDERSON: Yes, sir.

3 MR. SMITH: Right.

4 MR. ANDERSON: I believe, and Your Honor might
5 not want me going here yet, but there's a --

6 THE COURT: Does the child know that his mom has
7 passed away?

8 MR. ANDERSON: My client tells me he does, Your
9 Honor.

10 THE COURT: And how often does this child spend
11 the night with your client?

12 MR. ANDERSON: Your Honor, several times a week.
13 It's a situation where he works and he works a lot. He
14 makes good money working a lot. In the past he's worked
15 as much as seven days a week and done that regularly.
16 But it's not a situation where he passes the kid off,
17 like Ms. Dunham has framed it for the Court. This is a
18 family --

19 THE COURT: Okay. Well, I'm not asking -- I'm
20 just trying to figure this out.

21 MR. ANDERSON: Yes.

22 THE COURT: I'm gonna let you argue that. I just
23 want to make sure I've got everything --

24 MR. ANDERSON: Yes, Your Honor.

25 THE COURT: -- to keep it straight.

1 MR. ANDERSON: There's an insurance card in the
2 packet where he's got some --

3 THE COURT: Has grandfather asked to see the
4 child?

5 MR. ANDERSON: He has. My understanding --

6 THE COURT: Has he asked to talk to the child on
7 the phone?

8 MR. ANDERSON: I believe he has, Your Honor.

9 THE COURT: Has that been denied or granted?

10 MR. ANDERSON: It has. I can go into it.

11 THE COURT: It has what?

12 MR. ANDERSON: It has been denied at this point,
13 Your Honor.

14 THE COURT: Why?

15 MR. ANDERSON: There has been some animosity
16 between the parties since the Plaintiff's daughter's
17 passing. The source, from my client's perspective, he's
18 not really sure. They didn't know each other extremely
19 well, but for the most part in the past they've gotten
20 along, Your Honor. Things pretty much went south after
21 the Plaintiff's daughter passed away. There was talk
22 of, well, I make a lot of money, I'm coming after you in
23 court if you don't basically get me what I want.

24 At that point, Wayne just basically cut all
25 contact, Your Honor. For the record, he's not opposed

1 to visitation at all. He believes it would be good for
2 the child. He just basically cut contact at that point
3 due to the animosity.

4 THE COURT: All right. You may make your
5 presentation.

6 MR. ANDERSON: Thank you, Your Honor. I
7 appreciate it. I basically passed up a packet, Your
8 Honor, that will give you a snapshot of who my client
9 is, who his family is. We were hired yesterday. The
10 family basically pulled resources, got somebody together
11 to hire me. I would have been hired sooner, so we were
12 basically scrambling yesterday, Your Honor.

13 But number one what we want is custody. He wants
14 to be able to raise his boy. He is a father to that
15 child in every sense. He's not just a sperm donor, Your
16 Honor. As I said earlier, he's not opposed to
17 visitation.

18 THE COURT: Well, he went about three years
19 without even seeing his son, didn't he, except for --

20 MR. ANDERSON: No, sir, it wasn't that long.

21 THE COURT: Only when mom came to Spartanburg?

22 MR. ANDERSON: She lived here for several years.
23 And his position is that she lived here the majority of
24 the child's life. She had those back and forth periods
25 where she was down in Florida for several months at a

1 time, six, seven eight months.

2 THE COURT: The stories are certainly opposite.

3 MR. ANDERSON: Yes, sir. Your Honor, Ms. Dunham
4 has already referred to the order. That's tab number --
5 or not tab number six, but tab number three. You know,
6 often these hearings focus on affidavits and anyone can
7 give an affidavit. That's absolutely true. If the
8 allegation is that my client is simply a sperm donor and
9 an absentee father, I thought to myself how can I combat
10 that? Photographs. That's the only thing we could come
11 up with on such notice, Your Honor. The photograph book
12 on the bench, Your Honor.

13 THE COURT: This one?

14 MR. ANDERSON: Yes, sir. That depicts my client
15 being a father and, again, not a sperm donor. It also
16 reflects, and this is a bit unconventional but I still
17 think it shows he --

18 THE COURT: All right. The first pages seem to
19 be about the time the child was born.

20 MR. ANDERSON: Yes, sir.

21 THE COURT: Is that right?

22 MR. ANDERSON: That's correct.

23 THE COURT: Okay. Let me keep looking.

24 MR. ANDERSON: One of the photographs --

25 THE COURT: Here's one the child looks like

1 about, I don't know, a couple, several months old.

2 MR. ANDERSON: Yes, sir. One of those
3 photographs depicts a tattoo. Now, granted, that's
4 unconventional and may be frowned upon by some folks,
5 but a deadbeat dad who does not care about a child does
6 not get the child's name and date of birth tattooed on
7 his arm, Your Honor.

8 THE COURT: The younger child there, is that the
9 child in this action?

10 MR. ANDERSON: If my glasses aren't failing me,
11 yes, sir, I believe so.

12 THE COURT: It looks like the child there is
13 maybe about a year old?

14 MR. ANDERSON: I believe so. Maybe a little bit
15 younger, Your Honor.

16 THE COURT: Is that his child?

17 MR. ANDERSON: Yes, sir.

18 THE COURT: Was that today?

19 MR. SMITH: That's him right there. That was his
20 birthday.

21 THE COURT: Is that right now?

22 MR. ANDERSON: That was in July. July of 2015,
23 Your Honor.

24 MR. SMITH: July of 2015.

25 THE COURT: All right. Well, it looks like what

1 we've got is most of them are at birth. There's a
2 couple -- there's one that looks like less than a year,
3 one at about a year and the rest of them -- well,
4 there's one that looks like he's two or three.

5 MR. ANDERSON: Your Honor, as I said, yesterday I
6 wish we -- as I said about yesterday, we were scrambling
7 yesterday. We would have got a much more thorough
8 picture of him if we would have had the time, but we
9 just didn't do it, Your Honor. I'm going to move on
10 down the line, as far as the packet we handed up to the
11 Court.

12 Tab number five, Your Honor, health insurance
13 card for the Defendant (sic) through his workplace.
14 That reflects the minor child being on the insurance
15 policy.

16 THE COURT: How long has he been on the policy?

17 MR. ANDERSON: Since birth, Your Honor. Again,
18 not something that just a sperm donor does. That's
19 something a caring father does, Your Honor.

20 THE COURT: Well, why didn't he pay child
21 support?

22 MR. ANDERSON: It was basically, for lack of a
23 better way to phrase it, an off-the-books arrangement.
24 He paid for things, she paid for things. That sort of
25 arrangement, Your Honor.

1 THE COURT: What did he pay for?

2 MR. ANDERSON: Necessities. Diapers. Whatever,
3 whatever came up to raise a child basically. And
4 again --

5 THE COURT: You know how many dads come in here
6 and say, yeah, I support my child, I always take a box
7 of diapers when I go see my child?

8 MR. ANDERSON: Yes, sir, I understand. And it's
9 just one of those situations where he literally paid for
10 stuff and didn't keep any receipts. He's a layperson.
11 He doesn't know any better, to be honest.

12 THE COURT: That's what I'm asking, what he
13 bought. All I've got is diapers.

14 MR. ANDERSON: Clothes, toys. Whatever it took
15 to basically raise the child, Your Honor. That's very
16 broad, I understand.

17 THE COURT: I mean, that's as about as general as
18 you can get.

19 MR. ANDERSON: Yes, sir, I understand.

20 THE COURT: All right, go ahead.

21 MR. ANDERSON: Thank you. Moving on down the
22 line, and I'm gonna focus on some of these family
23 members affidavits, Your Honor. They attest to the fact
24 that he is a father. He's not just one of these guys
25 who steps in at the last minute, Your Honor. His

1 father, Wayne Smith, Sr., is here in the courtroom
2 behind me, Your Honor. His mother, Deidra Smith, Wayne
3 Smith, Sr.'s, wife is here as well. His sister,
4 Marquitta Smith is in the courtroom as well. Keith
5 Smith, his brother is in the courtroom as well. Is
6 Keith not here?

7 MR. SMITH, SR.: He's not here.

8 MR. ANDERSON: Okay. Well, there's an affidavit
9 from Keith, Your Honor, his brother.

10 THE COURT: Okay.

11 MR. ANDERSON: There's an affidavit from their
12 pastor, Mr. John Jackson, who is the pastor at Whitehall
13 Independent Methodist Church in Inman. That is where
14 the family goes. To sort of hone in on that point a
15 little bit, these are good folks. They go to church.
16 The child goes to church with them. It's very much a
17 family unit. Very tight knit, Your Honor.

18 THE COURT: Where did she, where did the mother
19 work during the early years of the --

20 MR. ANDERSON: Hair Composers, according to us,
21 Your Honor. Sports Clips in Greenville.

22 THE COURT: She's a cosmetologist?

23 MR. ANDERSON: I believe so, yes, sir.

24 THE COURT: Okay.

25 MR. ANDERSON: Moving on down to tab 12, Your

1 Honor, is an affidavit from associate minister Kathy
2 Jackson, who is also Whitehall Independent Methodist
3 Church, just to testify basically what I already told
4 the Court.

5 Tab 13 is an affidavit from Master Patrolman,
6 Russell Porter. He's in the courtroom. You've probably
7 seen him patrolling downtown and maybe in the courthouse
8 as well. He is a family friend and he attests to the
9 fact that Wayne's the father in every sense and appears
10 to be doing a great job being the father.

11 Tab number 14, Your Honor, is a report card from
12 the school that the child is enrolled in, [REDACTED]
13 [REDACTED] It's dated 10/30/2015. It's showing the
14 child's doing well. Now, granted you don't get a lot of
15 detail in report cards for a child at that young age,
16 but it shows he's doing well. It shows he's had zero
17 absences and two tardies, so...

18 THE COURT: Okay.. I can understand why a dad
19 wants custody of his child.

20 MR. ANDERSON: Yes, sir.

21 THE COURT: I mean, that's -- and normally dads
22 have priority over grandparents. I don't understand why
23 he wouldn't let granddad talk to the child on the
24 telephone. Can you tell -- can you give me a reason why
25 that happened?

1 MR. ANDERSON: Your Honor, I'm gonna go back to
2 what I previously told the Court. But this animosity,
3 it got nasty and it got nasty quick. Now, that's not a
4 reason, that's the rationale we have for the Court
5 today.

6 THE COURT: And what caused the animosity, was it
7 the death and the custody arrangement?

8 MR. ANDERSON: I can only assume the stress of
9 the Plaintiff's daughter's passing. I don't --

10 THE COURT: How could that possibly -- I mean, I
11 think even he admits the grandfather spent a lot of time
12 with him. We've got doctor visits, soccer, all kind of
13 things that grandfather was involved in. How can you
14 just cut a child off from that relationship even if the
15 child should be with dad?

16 MR. ANDERSON: It went from animosity to outright
17 demands and ultimatums, Your Honor. That's my
18 understanding. And at that point --

19 THE COURT: Demanding ultimates from?

20 MR. ANDERSON: From the Plaintiff to the
21 Defendant.

22 THE COURT: What kind of demands and ultimatums?

23 MR. ANDERSON: As far as I'm gonna get the kid.
24 There were also several attempts to basically get the
25 kid, Your Honor. If I'm not mistaken, the Plaintiff has

1 another daughter. The sister to the deceased mother of
2 the minor child. She at one point showed up at the
3 child's elementary school and attempted to take the
4 child. There was another incident where they showed up
5 at the family's residence attempting to take the child.

6 THE COURT: So the child is in a tug of war
7 between the two sides.

8 MR. ANDERSON: Yes, sir. Yes, sir. And we're
9 not taking the position that the Plaintiff is a bad
10 fellow, nor is his family. Quite the contrary. It's
11 just a situation where things went south. Could they
12 have been worked out in an amicable fashion and could
13 they have been handled better? Most definitely. But we
14 don't believe that rises to the level of the child being
15 taken from his father in a very close, tight-knit family
16 where the child is prospering and thriving, Your Honor.

17 THE COURT: All right. Y'all give me a moment.

18 MR. ANDERSON: Yes, sir.

19 THE COURT: I'm probably gonna get to this in a
20 moment when I sift through these affidavits I'm about to
21 read. Ms. Dunham, who -- is your client married?

22 MS. DUNHAM: Yes, Your Honor, but not to the
23 mother's mom.

24 THE COURT: He has a wife?

25 MS. DUNHAM: Yes.

1 THE COURT: Is that her seated behind him?

2 MS. DUNHAM: No, that's his other daughter.

3 THE COURT: Oh, that's his other daughter. Who
4 lives in his home?

5 MS. DUNHAM: He and his wife.

6 THE COURT: Okay, and that's it?

7 MS. DUNHAM: Yeah.

8 THE COURT: Is your client married?

9 MR. ANDERSON: He is not, Your Honor.

10 THE COURT: Who lives in his home?

11 MR. ANDERSON: He lives with the mother of one of
12 his children, Your Honor. They're essentially engaged
13 to be engaged.

14 MS. DUNHAM: He lives in his girlfriend's house.

15 MR. ANDERSON: That's correct.

16 THE COURT: Okay. Is she married?

17 MR. ANDERSON: No, sir.

18 THE COURT: Okay, neither one of them are
19 married?

20 MR. ANDERSON: No, sir.

21 THE COURT: Does she have children that lives in
22 that house?.

23 MR. ANDERSON: They do. They've been together
24 four years, Your Honor.

25 THE COURT: Do they have children together?

1 MR. ANDERSON: They do. They have a child
2 together, a daughter.

3 THE COURT: So how many children live in that
4 house?

5 MR. ANDERSON: Three total. Two total, Your
6 Honor, excuse me.

7 THE COURT: Whose two children are those?

8 MR. ANDERSON: The child that's the subject of
9 this action and his child with the girlfriend that he
10 lives with.

11 THE COURT: Does she have any other children?

12 MR. ANDERSON: No, sir.

13 THE COURT: Does he have any other children?

14 MR. ANDERSON: He's got three children total,
15 Your Honor.

16 THE COURT: He's got three children?

17 MR. ANDERSON: Yes, sir.

18 THE COURT: Where are the other two?

19 MR. ANDERSON: The other child resides with the
20 mother.

21 THE COURT: So where's the third -- okay.

22 MS. DUNHAM: He's got three children by three
23 different women.

24 MR. ANDERSON: That's correct, Your Honor. If
25 you'll look at the --

1 MS. DUNHAM: None of them he's married.

2 THE COURT: And two of them live, he says, lives
3 with him and one lives with the mother?

4 MR. ANDERSON: That's correct, Your Honor.

5 MS. DUNHAM: But he's referring to [REDACTED]

6 THE COURT: Right.

7 MS. DUNHAM: As one of the two, which is not
8 residing with him pursuant to the --

9 MR. ANDERSON: The Court will --

10 MS. DUNHAM: -- P.I. report.

11 THE COURT: Did you tell me a moment ago,
12 somebody told me the child was at his house overnight
13 about two days a week.

14 MR. ANDERSON: It's very much again, I'll say it
15 for maybe a fourth time, a village sort of situation.
16 The family is here, so --

17 THE COURT: Why is the child not at his house?
18 Last time you told me when I asked you that question was
19 because of his work hours.

20 MR. ANDERSON: Yes, sir. A lot of it has to do
21 with that.

22 THE COURT: Where's his girlfriend that he's
23 engaged to?

24 MR. ANDERSON: She works as a nurse full time at
25 Spartanburg Regional, Your Honor.

1 THE COURT: What's that mean, she's gone at
2 night?

3 MR. ANDERSON: She works 12-hour shifts.

4 THE COURT: But she's gone at night?

5 MR. ANDERSON: During the day 12-hour shifts,
6 Your Honor.

7 THE COURT: Like 7 a.m. to 7 p.m.?

8 MR. ANDERSON: That's correct, Your Honor.

9 THE COURT: And what are his work hours?

10 MR. ANDERSON: Currently he's on first shift,
11 Your Honor, which is seven to seven. He has been --
12 Your Honor, he works at a plant in Rutherford, North
13 Carolina. He works first shift seven to seven for the
14 first six years of his employment there. And he's been
15 employed there, again, for ten years. He works seven
16 days a week.

17 THE COURT: Well, how many nights is the other
18 child there?

19 MR. ANDERSON: The child that resides with the
20 mother outside of his home, every other weekend, Your
21 Honor.

22 THE COURT: No. I'm talking about the other
23 child that lives in his home.

24 MR. ANDERSON: Every night, Your Honor.

25 THE COURT: So one child's there every night, his

1 child's there two nights a week?

2 MR. ANDERSON: That appears accurate, Your Honor.

3 THE COURT: Okay. Is there an explanation for
4 that?

5 MR. ANDERSON: Your Honor, it all falls back on
6 the work schedule, he's telling me. He basically --

7 THE COURT: Well, I don't understand how he and
8 his wife have children -- not his wife, his girlfriend,
9 I guess his fiancée, they're gonna get married, how they
10 have a child together and that child stays at home. How
11 old is that child?

12 MR. ANDERSON: One year old, Your Honor.

13 THE COURT: But the other child has to go stay at
14 great grandmother's house or something. Why is that?
15 Why are they treated differently?

16 MR. ANDERSON: Your Honor, his sister, Marquitta
17 has a child name ~~_____~~. It's my
18 understanding that he has a strong -- the child that
19 we're talking about specifically, the one of this
20 action, has a strong bond with that child, ~~_____~~
21 Again, this is Marquitta, my client's sister. A lot of
22 it has to do with the child bonding with that almost
23 sibling like --

24 THE COURT: Well, isn't the bond with dad and
25 fiancée more important?

1 MR. ANDERSON: Yes, sir.

2 THE COURT: This thing's just messed up. And I
3 know it's nobody, it's probably nobody's fault in this
4 room. It's just an unfortunate situation.

5 MR. ANDERSON: Your Honor, we fall back on our
6 comments that it's certainly unconventional. It's not
7 your typical arrangement.

8 THE COURT: Everything being equal or maybe even
9 a little bit unequal, the children should be with their
10 parents over other people. But I'm wondering if we got
11 the child here and the child is staying with other
12 relatives, what's the difference between the child being
13 with this gentlemen, who the child's spent a lot of time
14 with, and now hasn't seen in a couple of months.
15 There's been no child support. It sounds like one
16 child, and this is the youngest child, gets to stay home
17 and the other one goes someplace else because he's
18 bonded with some other kid. That just doesn't add up to
19 me.

20 MS. DUNHAM: Judge, it's real simple. There's no
21 bond really to speak of with the dad. That the dad
22 swooped in. And the reason the child is staying with
23 someone else is because it's easier for someone else to
24 take care of the child than the daddy because he doesn't
25 have the bond that Mr. Alukonis had. The reason he's

1 denying the visitation with Mr. Alukonis is he's
2 threatened by the bond that Mr. Alukonis had with his
3 own grandchild.

4 And what's missing from their packet is more
5 important than what's in it, which is any scintilla of
6 evidence, whether it's pediatric records, dental
7 records, school records or anything else that would
8 establish a nexus between this man and this child prior
9 to July of 2015 because it does not exist.

10 MR. ANDERSON: Your Honor, we blatantly disagree
11 with that.

12 THE COURT: Who's the child's dentist in
13 Spartanburg?

14 MR. ANDERSON: Your Honor, my client tells me
15 he's been to the dentist here. He cannot think of that
16 dentist's name. He did tell me that his teacher --

17 THE COURT: Who took the child to the dentist?
18 Not that there's anything wrong with grandma doing that.
19 I'm just curious.

20 MR. ANDERSON: His mother did the majority of
21 time.

22 THE COURT: I mean, that's oftentimes done with
23 kids who have parents working.

24 MR. ANDERSON: Yes, sir. Getting back to just
25 blatantly disagreeing with Ms. Dunham, Your Honor, I

1 think a guardian will very much shed light on who is
2 with the child.

3 THE COURT: Well, I agree too. We've got to have
4 that.

5 MR. ANDERSON: Yes, sir.

6 THE COURT: That's the only way I'm gonna be able
7 to figure out the facts in this case.

8 MR. ANDERSON: Yes, sir. The boy loves his
9 father, Your Honor.

10 THE COURT: Well, I'm sure he does. Every boy
11 loves his father, and I think every boy loves his
12 grandfather.

13 MR. ANDERSON: We don't dispute that.

14 THE COURT: And I haven't heard any complaints
15 that dad had of denial of access when the child was with
16 the grandfather, but there's problems coming the other
17 way, which has me concerned. I'm gonna have to study
18 these affidavits and stuff carefully before I make a
19 decision. It's a, it's a sad case.

20 How long is your client gonna be in South
21 Carolina?

22 MS. DUNHAM: The rest of the week or as long as
23 it takes to begin to have some visitation. Today would
24 be perfect. The child will be --

25 THE COURT: Well, I'm gonna do it today.

1 MS. DUNHAM: -- out of school by three.

2 MR. ANDERSON: My client, it's perfectly fine
3 with us, Your Honor.

4 THE COURT: The child is in school now?

5 MR. ANDERSON: Yes, sir.

6 THE COURT: What time does the child get out of
7 school?

8 MR. ANDERSON: 2:30.

9 MR. SMITH: He don't have school today.

10 THE COURT: I beg your pardon?

11 MR. SMITH: They don't have school today.

12 THE COURT: Oh, there's no school today?

13 MR. SMITH: There's no school today.

14 MR. ANDERSON: There's no school today.

15 THE COURT: Where's the child now?

16 MR. ANDERSON: With family in Inman, Your Honor.

17 THE COURT: Did anybody ever consider possibly
18 bringing the child to the courthouse so that granddad
19 could see the child? Did that occur to anybody on this
20 side of the family?

21 MR. ANDERSON: We did not discuss it, Your Honor.

22 THE COURT: Sir, did you talk about it or think
23 about it? Did you talk to anybody or even given any
24 thought that grandfather was gonna be in town today and
25 maybe it would be a good time for them to -- him to see

1 his grandson?

2 MR. SMITH: No, sir.

3 THE COURT: I don't know how long -- is he gonna
4 be here the rest of the week?

5 MS. DUNHAM: Yes.

6 THE COURT: I will try my best to have a decision
7 by Friday in this case on temporary custody. I want
8 granddad to be able to -- the child is in Inman?

9 MR. ANDERSON: Yes, sir.

10 THE COURT: How do you suggest we make an
11 exchange?

12 MR. ANDERSON: What about the sheriff's
13 department?

14 THE COURT: Is there a family -- do you know all
15 these family members, sir?

16 MR. ALUKONIS: I don't know the back row
17 gentleman, but I know everybody else.

18 THE COURT: Okay. Which one would you like to
19 make the exchange with?

20 MR. ALUKONIS: Probably --

21 MS. DUNHAM: Stand up.

22 MR. ALUKONIS: Oh, I'm sorry. I would think
23 Wayne.

24 THE COURT: Wayne, are you willing to do -- to
25 deliver the child at some meeting point?

1 MS. DUNHAM: Wayne, Jr. or Sr.?
2 MR. ALUKONIS: I meant Wayne, Jr.
3 THE COURT: Wayne, Jr. You're Wayne, Jr.
4 MR. SMITH: Uh-huh.
5 THE COURT: Okay. Is that all right?
6 MR. SMITH: It's okay with me.
7 THE COURT: Does that suit you, sir?
8 MR. ALUKONIS: (Nods head up and down.)
9 THE COURT: Okay. Well, can we do it at
10 11 o'clock at some point?
11 MR. SMITH: Yes, sir.
12 THE COURT: All right. Where do you suggest,
13 sir? Do you know where he lives?
14 MR. ALUKONIS: I can -- yes, I do.
15 THE COURT: Is it all right if he just comes to
16 your house?
17 MR. SMITH: Yes.
18 THE COURT: Is that all right with you?
19 MR. ALUKONIS: Yes. I'm not sure which house.
20 THE COURT: Okay.
21 MS. DUNHAM: The girlfriend's house or the great
22 grandmother's house? Which house?
23 MR. SMITH: He can come to mine.
24 THE COURT: All right. What's that address? Do
25 you know where that is?

1 MR. ALUKONIS: Yeah, we have that address.

2 THE COURT: Okay. Pick up the child at 11. Does
3 that give you time to get home and get your child and
4 explain to him what's about to happen?

5 MS. DUNHAM: [REDACTED] is that
6 correct?

7 MR. SMITH: That's correct.

8 THE COURT: And I'm gonna let you keep the child
9 until -- does the child got school tomorrow?

10 MR. SMITH: Yes, sir.

11 MR. ANDERSON: Your Honor, could we request that
12 that exchange take place at noon, just to give him a
13 little more time to get situated?

14 THE COURT: Okay. I'm afraid 11 o'clock might be
15 a little too soon. We'll do it at noon. And I'm gonna
16 let him keep the child to 6:30.

17 What time does the child get out of school
18 tomorrow?

19 MR. ANDERSON: 2:30, Your Honor.

20 MR. SMITH: 2:30.

21 THE COURT: Are you gonna pick him up from
22 school?

23 MR. ALUKONIS: Sure. If they have a list. I'm
24 not on their list. If I could get put on the list.

25 THE COURT: Can you get that done?

1 MR. SMITH: Yes, sir.

2 MS. DUNHAM: Well, he can meet the dad there. I
3 mean, they could meet at the school and --

4 THE COURT: Do whatever you need to do to make
5 sure he can pick the child up at school tomorrow.
6 Either have someone else there or you, you make
7 arrangements with the school.

8 MR. ANDERSON: We'll make arrangements, Your
9 Honor.

10 THE COURT: All right. We've got two conflicting
11 interests here. We've got grandpa, who's -- I hope
12 you're not offended by me calling you that name.

13 MS. DUNHAM: He's not.

14 THE COURT: We've got grandfather who needs to
15 see the child in my opinion, but we've got to make sure
16 the homework gets done at the same time. Can you --

17 MR. ALUKONIS: I can -- we can handle that.

18 THE COURT: All right. I'm gonna do 2:30 to 7 on
19 Wednesday. And I'm gonna let the child spend the night
20 with him Thursday night and he can take the child to
21 school, pick the child up from school.

22 MS. DUNHAM: Return the child at 7 p.m. to his --
23 to the father's home on Wednesday?

24 THE COURT: Yes.

25 MS. DUNHAM: Okay. And then grandfather pick the

1 child up from school, keep the child overnight and take
2 him to school Friday morning?

3 THE COURT: That's correct.

4 MR. ANDERSON: Your Honor, 7 o'clock, he will not
5 be home from work yet --

6 MR. SMITH: I won't be off work yet.

7 MR. ANDERSON: -- as he gets off work then.

8 THE COURT: What time? What works for you, sir?

9 MR. SMITH: I mean, he goes to bed at 8:30.

10 THE COURT: Well, what time do you want me to
11 have him home?

12 MR. SMITH: I can be home at 7:40.

13 THE COURT: So you want him to return the child
14 at 7:40?

15 MR. SMITH: Yes, Your Honor.

16 MR. ANDERSON: Can we do 8 o'clock?

17 MR. SMITH: We can do 8 o'clock.

18 THE COURT: 8 o'clock instead of seven.

19 MR. ALUKONIS: Great.

20 THE COURT: Now, let me mention one other thing.
21 I don't -- I have no idea what I'm going to rule in this
22 case right now. I've got to study all this stuff and
23 make a decision. I want a guardian appointed. The
24 guardian is gonna make an investigation. I'm probably
25 gonna have the guardian, give the guardian power to

1 bring another motion back to court for me to modify this
2 first order in the event the guardian thinks it's in the
3 best interest of the child.

4 But what I expect from everybody in this case is
5 to show mutual respect to each other. I know that child
6 loves his dad, and I know that child loves his
7 grandfather. All children love their grandfathers, but
8 this grandfather seems to have a closer connection and
9 probably a closer bond with this child than most
10 grandfathers do.

11 I think it's awful what's happened. I don't know
12 who to blame, maybe both of you to blame. Maybe one of
13 you is to blame. But this has got -- this needs to
14 stop, and this child needs to have a relationship with
15 everybody in his family.

16 I don't like to get personal, but I remember my
17 dad had 11 brothers and sisters and I had cousins
18 everywhere. And I would have been devastated if I did
19 not have the relationship with them that I, that I had.
20 And they still exist until this day, so don't mess that
21 up. If you do, your child is going to end up resenting
22 it and blaming somebody for it and you don't want that
23 to happen either. Okay?

24 All right, so at least we've got the schedule for
25 the rest of the week. All right, thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. ANDERSON: Thank you, Judge.

(Whereupon, hearing concluded at 10:09 a.m.)

--- THIS ENDS REQUESTED TRANSCRIPT ---

1 COURT REPORTER CERTIFICATE

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

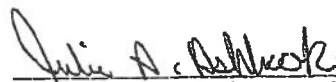
23

24

25

I, the undersigned Julie A. Ashbrook, Court Reporter for the Thirteenth Judicial Circuit Family Court of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Family Court for Spartanburg County, South Carolina, on the 3rd day of November, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



Julie A. Ashbrook
Family Court Reporter
Thirteenth Judicial Circuit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
) IN FAMILY COURT
COUNTY OF SPARTANBURG)

Steve Alukonis,)
) TRANSCRIPT OF RECORD
 Plaintiff,) 2015-DR-42-2977
-vs-)
Wayne Smith, Jr.)
) April 26, 2016
 Defendant.) Spartanburg, South Carolina

B E F O R E:

HONORABLE KELLY POPE-BLACK, JUDGE

A P P E A R A N C E S:

ALLISON P. DUNHAM, ESQUIRE
Attorney for the Plaintiff

ALYSSA RICHARDSON, ESQUIRE
Attorney for the Defendant

ANGELA J. MOSS, ESQUIRE
Guardian ad Litem

Margaret A. Woods
Circuit Court Reporter

ORIGINAL

1 THE COURT: Alright, this is -- okay, are they all
2 necessary?

3 MS. RICHARDSON: Your Honor, they're just family
4 supporting ---

5 THE COURT: Okay.

6 MS. RICHARDSON: --- my client.

7 THE COURT: Alright, this is Steven Alukonis -- konis,
8 okay, and Wayne Smith Case Number 2015-DR-42-2977, note for
9 the record this complaint was filed in October of 2015 and the
10 plaintiff is here represented by Allison Dunham, Alyssa
11 Richardson is here with the defendant and the guardian ad
12 litem Angela Moss is present. Now, Ms. Richardson, am am I
13 missing something or have you -- today's motion just deals
14 with a more definite certain.

15 MS. RICHARDSON: That's correct, Your Honor.

16 THE COURT: For a complaint that was filed back in
17 October? Ya'll ---

18 MS. RICHARDSON: Yes, Your Honor, ---

19 THE COURT: --- have a seat, ya'll sit down.

20 MS. RICHARDSON: Yes, Your Honor, I was not representing
21 Mr. Smith at the time, uh, I believe ---

22 THE COURT: Okay, have ---

23 MS. RICHARDSON: --- I ---

24 THE COURT: --- you, uh, taken a drive up here to get a
25 copy of the file?

1 MS. RICHARDSON: I I have not, Your Honor, uh, ---
2 THE COURT: Have you requested ---
3 MS. RICHARDSON: --- this is the ---
4 THE COURT: --- the file ---
5 MS. RICHARDSON: --- first day ---
6 THE COURT: --- from his ---
7 MS. RICHARDSON: --- I've been up here.
8 THE COURT: --- previous attorney?
9 MS. RICHARDSON: I've gotten everything that I, uh, ---
10 THE COURT: Okay.
11 MS. RICHARDSON: --- I believe I could have gotten from
12 him.
13 THE COURT: So what from this can you not ascertain what
14 the complaint's about?
15 MS. RICHARDSON: Your Honor, I I also requested a
16 transcript from the temporary hearing, I've ---
17 THE COURT: Have ---
18 MS. RICHARDSON: --- I've ---
19 THE COURT: --- you requested that from the court
20 reporter?
21 MS. RICHARDSON: Yes, Your Honor, I've received it, I've
22 read through ---
23 THE COURT: Okay.
24 MS. RICHARDSON: --- it. I received it, um, after I
25 filed this motion, ---

1 THE COURT: Okay.

2 MS. RICHARDSON: --- uh, Your Honor, I still am not
3 certain as to what the, what the complaint is regarding
4 Mr. Smith's fitness.

5 THE COURT: Have you read through the temporary packet?

6 MS. RICHARDSON: I did.

7 THE COURT: And you still have a problem?

8 MS. RICHARDSON: Yes, Your Honor, I -- it -- there's
9 complaints about him havin' the kidride down a, uh, a street
10 without a, on a bicycle without a helmet, I just don't think
11 that that rises to the level of unfitness, I think there has
12 to be something more.

13 THE COURT: Ms. Dunham.

14 MS. DUNHAM: Your Honor, I filed a return, it should be
15 in there, I believe this is moot. Uh, we filed this in
16 October, opposing counsel filed an answer and counterclaim
17 responding in January and that was before the motion was filed
18 so I think it's moot. Uh, in the alternative, uh, I agree
19 'cause that's what my return says that taken as a whole it is
20 abundantly clear what the issues are in this case, uh, and I
21 believe that the Court's instructions that were provided to
22 counsel as well as the order detail why the Court made a prima
23 facie showing at the emergency hearing as to his unfitness,
24 uh, so I do not believe that the pleadings need to be amended.

25 THE COURT: Alright, Ms. Richardson -- I'm sorry,

1 Ms. Moss, is there anything from the guardian?

2 MS. MOSS: No, Your Honor.

3 THE COURT: Okay. Um, I've read Judge Fraley's order
4 from November, I think it pretty layth -- it lays everything
5 out pretty well, also his findings in regards to where custody
6 was going to remain at that time and visitation so I'm I'm
7 kind of, uh, confused as to where the -- your confusion would
8 be and why you need a more definite statement given the fact
9 that Judge Fraley has issued an order.

10 MS. RICHARDSON: Well, Your Honor, Rule 8 says that the
11 pleadings are supposed to, they're not a notice pleading, it's
12 a fact pleading and the, I feel like the complaint fell short
13 on specifying ---

14 THE COURT: Okay, and I know ---

15 MS. RICHARDSON: --- what ---

16 THE COURT: --- you're comin' in late in the game, ---

17 MS. RICHARDSON: Yes, Your Honor.

18 THE COURT: --- okay, and I know you drove from Columbia,
19 uh, and, Mr. Smith, I know that you've retained her and she's
20 coming from Columbia for this; however, Ms. Richardson, I
21 think that it would be most efficient of the Court's use of
22 the time if in the future that you review the file in in depth
23 before you file motions such as these because, uh, I would
24 agree that there's been an answer, uh, that's been filed, not
25 by you, by another attorney, uh, there's already been an

1 emergency hearing with an order in place and the complaint was
2 filed back in October so; one, I think it's untimely and; two,
3 uh, I would agree, Ms. Dunham, that it's moot so I'm gonna
4 deny the motion, okay.

5 MS. RICHARDSON: Your Honor, may I respond briefly ---

6 THE COURT: No, ---

7 MS. RICHARDSON: --- to that ---

8 THE COURT: --- ma'am, I've given my ruling. You can
9 draft an order please, thank you.

10 MS. RICHARDSON: You would like for me to draft the
11 order?

12 THE COURT: Yes, ma'am.

13 MS. RICHARDSON: Okay.

14 THE COURT: Thank you.

15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on April 26, 2016 at the time and place heretofore set forth; and that the foregoing pages numbered from 2 through 6, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

May 16, 2016



Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Steven K. Alukonis)

Plaintiff,)

vs.)

Wayne K. Smith, Jr.,)

Defendants.)

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Docket No. 2015-DR-42-2977

FILED
MAY 21 2016
CLERK

Plaintiff's Attorney: John B. White, Jr., Bar No. 5996 and Allison P. Dunham, Bar No. 8864 Harrison, White, Smith, & Coggins, P.C. 178 W. Main Street Spartanburg, SC 29306 Phone: (864) 585-5100 Fax (864) 591-0491 E-mail: jwhite@spartanlaw.com and adunham@spartanlaw.com	Defendant's Attorney: Jonathan W. Lounsberry, Bar No. 78304 The Stevens Firm, P.A. 349 East Main Street, Suite 200 Spartanburg, SC 29302 Phone: (864) 598-9172 Fax (864) 598-9264 E-mail: jonathan@SCFamilyLaw.com	Guardian ad Litem: Angela J. Moss, Bar No. 4262 366 N. Church St., Ste. 3000 Spartanburg, SC 29303 Phone: (864) 590-2786 Fax: (864) 814-3724 E-mail: ajmoss@yahoo.com
---	--	--

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed:

Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached

Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant

Date submitted: May 21 2016

SECTION III: Motion Fee

PAID - AMOUNT:

EXEMPT:

(check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRCP)
- Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: Cheryl T. MacMillan
- Other:

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.

Other:

JUDGE CODE _____ Date: _____

Judge Signature: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: \$ _____

CONTESTED - AMOUNT DUE: \$ _____

Custodial Parent (if applicable): _____

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Steven K. Alukonis,

Plaintiff,

vs.

Wayne K. Smith, Jr.,

Defendant.

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2015-DR-42-2977

2017 MAR -9 PM 4:01
J. HOPE ELACKLEY

FINAL ORDER

Hearing Date: March 20—30, 2017
Presiding Judge: The Hon. Phillip K. Sinclair
Attorneys for Plaintiff: John B. White, Jr.
Allison P. Dunham
Attorneys for Defendant: Jonathan W. Lounsberry
Guardian *ad Litem*: Angela Moss
Court Reporter: Cheryl T. MacMillan

This matter was commenced by the filing of a *Summons and Complaint* by the Plaintiff on October 21, 2015. The Defendant filed his *Answer and Counterclaim* on February 3, 2016, to which the Plaintiff filed a *Reply* on March 23, 2016.

An Expedited Hearing was held on November 3, 2015, to address the issues raised in the Plaintiff's *Notice of Motion and Motion for Emergency, or in the alternative, Expedited Temporary Custody* filed on October 20, 2015, and an *Order on Expedited Hearing* was issued by this Court on November 6, 2015. At this hearing, and by separate *Order Appointing Guardian ad Litem* filed November 5, 2015, Angela Moss was appointed to serve as the *Guardian ad Litem* for the minor child.

Mediation was conducted by the Honorable Robert E. Guess on September 16, 2016, and the *Mediation Report* was filed with the Court on October 17, 2016.

#1
WKS

A Pre-Trial Conference was held by the Honorable Kelly Pope-Black on November 21, 2016, and an *Order Regarding Pre-Trial Hearing* was issued by this Court on January 3, 2017, which granted the Defendant's prior counsel of record, Alyssa Richardson, *Motion to be Relieved as Counsel*; granted the Plaintiff the ability to take videotaped *de bene esse* depositions of certain witnesses located in Florida; scheduled the Final Hearing in this matter as an "A" case for the full weeks of March 20, 2017, and March 27, 2017; and granted the undersigned Judge exclusive jurisdiction over the matter.

The Defendant filed a *Notice of Motion and Motion to Amend Pleadings & Sequester Witnesses* seeking to amend his *Answer and Counterclaim* on February 2, 2017, and the Plaintiff filed his *Return* to said Motion on February 9, 2017. A hearing on this Motion was held on February 9, 2017. The Court issued its *Order Regarding the Defendant's Motion to Amend Pleadings & Sequester Witnesses* on February 23, 2017, which granted the Defendant leave to amend his Answer and Counterclaim pursuant to Rule 15(a), *South Carolina Rules of Civil Procedure*, along with the Plaintiff being granted leave to amend his Reply; sequestering all fact witnesses, including the videotaped *de bene esse* depositions, except for the Plaintiff's expert, Jonathan Gould, Ph.D.; and reserving the parties requests for fees and costs associated with the hearing. The Defendant filed his *Amended Answer and Counterclaim* on February 27, 2017, and the Plaintiff filed his *Amended Reply* on March 6, 2017.

Pursuant to instructions by the Court, the Defendant filed a *Notice of Motion and Motion Regarding De Bene Esse Depositions* on February 17, 2017, and the Plaintiff filed his *Return* to the same on February 24, 2017. A hearing on this Motion was held on February 24, 2017. The Court issued its *Order Regarding the Defendant's Motion Regarding De Bene Esse Depositions* on March 20, 2017, which sustained the Defendant's objections in the Deposition Transcript of

#2
OKS

Diane Au and required the redaction of said testimony from the transcript and video of same; denied the Defendant's general objection and *Motion in Limine* regarding the testimony of Rosalind Mandler, LMHC; and reserved the parties' request for attorney's fees and costs associated with same.

The Defendant filed a *Notice of Motion and Motion to Compel Discovery Responses* on March 8, 2016, and the Plaintiff filed his *Return* to the same on March 15, 2017. A hearing on this Motion was held on March 16, 2017. The Court issued its *Order on Defendant's Motion to Compel* on March 22, 2017, which denied the Defendant's *Motion* and reserved the parties' request for attorney's fees and costs associated with the same.

At the call of the case, the Plaintiff appeared with his counsel of record, John B. White, Jr., and Allison P. Dunham of Harrison, Smith, White & Coggins, PC, in Spartanburg, South Carolina. The Defendant appeared with his counsel of record, Jonathan W. Lounsberry of The Stevens Firm, P.A., in Spartanburg, South Carolina. The Guardian *ad Litem*, Angela Moss, also appeared on behalf of the interests of the minor child.

Having heard and considered all the extensive testimony and other evidence submitted by the parties and the Guardian *ad Litem* at the Final Hearing in this matter, the Court makes the following Findings of Fact and Conclusions of Law:

BACKGROUND AND JURISDICTION

1. The Plaintiff is the maternal grandfather of the minor child. He is a citizen and resident of Brevard County, Florida. .
2. The Defendant is the biological parent of the minor child. He is a citizen and resident of Spartanburg County, South Carolina, having been so in excess of the statutorily required period prior to the filing of this action.

3. The minor child was born on [REDACTED], of a relationship between the minor child's mother (the Plaintiff's daughter) and the Defendant. The minor child's mother and the Defendant were never married. At the time of filing, the minor child was five-years-old; and, at the time of the Final Hearing, the minor child was almost seven-years-old.

4. The minor child's mother committed suicide on August 18, 2015. Following her death, the minor child was in the care and custody of the Defendant, until following the above-referenced Expedited Hearing.

5. In August 2015, the Plaintiff filed an action in the Probate Court for Brevard County, Florida seeking Guardianship of the minor child. Prior to the filing of the instant matter, the Plaintiff dismissed the Probate Court action.

6. The Defendant was adjudicated the father of the minor child by *Order* of the Court issued on September 4, 2015, in the matter of *In re: [REDACTED] Alukonis*, Spartanburg County Family Court, Seventh Judicial Circuit, Case No.: 2015-DR-42-2397.

7. The Plaintiff, in his *Complaint, Reply, and Amended Reply*, sought to be declared the *de facto* custodian and/or psychological parent of the minor child; for sole custody of the minor child, or, in the alternative, specified visitation; for visitation with the minor child pursuant to S.C. Code Ann. § 63-5-530(A)(33); for the Defendant to have restricted, supervised visitation; for the Court to adopt Judge Brown's Restraining Orders and Guidelines and Codes of Conduct; for the Defendant be required to pay child support pursuant to the South Carolina Child Support Guidelines; for authority to consent to routine and emergency medical and dental care and treatment as may be required and to manage and provide for the minor child's educational needs; for the Defendant to contribute to the minor child's uncovered medical expenses; to restrain the Defendant from making derogatory comments about the Plaintiff in the presence or proximity of

01/11/16
9:01 PM
M. W. PEELAWLEY

the minor child or to the minor child or allowing third parties to do so; the appointment of a Guardian *ad Litem*; and for attorney's fees and costs.

8. The Defendant, in his *Answer and Counterclaim* and his *Amended Answer and Counterclaim*, sought an Order declaring South Carolina the "home state" of the minor child pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (S.C. Code Ann. §§ 63-15-300 et seq.); recognizing that the Defendant's paternity of the minor child had been legally established by prior Order of the Court; sole custody of the minor child, with the Plaintiff having reasonable and specified visitation based upon the belief that it would be in the minor child's best interests, provided that it would be subject to restrictions on the Plaintiff that would prevent the Plaintiff from undermining the Defendant's decision-making authority as the minor child's natural father and custodial parent; appointing a Guardian *ad Litem*; and for attorney's fees and costs.

9. The parties were duly and properly served with the pleadings in this matter, and duly and properly notified of the date, time, and place of the Final Hearing in this matter as set forth above.

10. Accordingly, the Court finds that it has jurisdiction over the parties, jurisdiction over the issues presented in this matter, and that venue for this action properly lies in Spartanburg County, South Carolina.

11. Further, this Court finds that this Court is the only court that has jurisdiction over the parties, the minor child, and the issues raised in this action pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (S.C. Code Ann. §§ 63-15-300 et. seq.), and the "home state" of the minor child is South Carolina. *See* S.C. Code Ann. § 63-15-330.

#5
DLS

CUSTODY

12. At the outset of the Final Hearing, the Court, in accordance with the law of this State, had to determine the parity of the parties' status with respect to their requests for custody of the minor child. The Court carefully reviewed the applicable case and statutory law, the testimony of the witnesses presented by the parties, the testimony of the parties, and all the other evidence presented by the parties. The Court also considered the testimony of the Guardian *ad Litem* and the reports and other evidence presented by the Guardian *ad Litem*.

13. The Court considered the totality of the past and present circumstances; all evidence presented as to the character, fitness, attitude, and inclinations parties; how such factors could affect and impact the minor child, as well as the psychological, physical, environmental, spiritual, educational, medical, family, emotional, and recreational aspects of the parties' and the minor child's lives; and all other facts pertinent to this case.

14. The Plaintiff requested custody of the minor child on the basis that he was the minor child's *de facto* custodian. Under the "*de facto* custodian" statute: "the family court may grant visitation or custody of a child to the *de facto* custodian if it finds by clear and convincing evidence that the child's natural parents are unfit or that other compelling circumstances exist." See S.C. Code Ann. § 63-15-60(C). Thus, the Court must first determine, by clear and convincing evidence, if the Plaintiff is the minor child's *de facto* custodian. See S.C. Code Ann. § 63-15-60(A)(2) ("For purposes of this section, "*de facto* custodian" means, unless the context requires otherwise, a person who has been shown by clear and convincing evidence to have been the primary caregiver for and financial supporter of a child who has resided with the person for a period of one year or more if the child is three years of age or older.").

15. The Plaintiff was born and raised in Long Island, New York. He was 60 years old at the time of the Final Hearing. He is a chiropractor, who owns his own practice in Brevard County Florida, where he lives. According to his most current Financial Declaration, his gross monthly income is \$14, 212.00. He has immediate family and close friends, with whom he enjoys close relationships and frequent contact, and who provide him support in helping to care for the minor child from time-to-time. He is the father of four children (including the mother of the minor child who is the subject of this action, and one child who is a minor) and the grandfather of two children (including the minor child who is the subject of this action). He has no criminal convictions, nor is he involved in any other litigation. He does not have any substance abuse issues, nor is he involved in any treatment for any substance abuse issues.

16. Based on the testimony of the witnesses, the testimony of the parties, and the evidence presented, the Court is aware that during the minor child's life, the minor child's mother had a pattern of traveling between Florida and South Carolina, and living in each state for significant periods of time. When the minor child's mother would travel between Florida and South Carolina, the minor child would accompany her. The Court finds that at the time of filing the minor child had spent approximately half of his life in Florida (31 months) and the other half in South Carolina (31 months). It is also clear from the testimony and evidence that the Plaintiff became involved with the minor child shortly after his birth.

17. During the months the minor child spent in Florida, the Plaintiff provided the minor child's mother with support and care, as well as providing her with a place to live. The Court recognizes that the minor child's mother suffered from both mental health and substance abuse issues. These impediments caused her to rely on the Plaintiff for support, care, and a place to live. During the times the minor child's mother and the minor child resided with the Plaintiff in Florida,

the Plaintiff would often parent the minor child when his daughter was unable to do so, which included, but was not limited to, spending time with the minor child and taking him to pre-school.

18. The Court is further aware that the minor child's mother was twice hospitalized for inpatient treatment of her mental health issues: once in South Carolina in 2013 and once in Florida in 2015. During these hospitalizations, both the Plaintiff and the Defendant cared for the minor child, with the Defendant caring for the minor child during the 2013 hospitalization and the Plaintiff caring for the minor child during the 2015 hospitalization.

19. As the Plaintiff's daughter was unable to hold steady employment, the Plaintiff also provided her with financial support, which indirectly supported the minor child. This financial support occurred during times when his daughter resided in South Carolina and Florida. Additionally, when his daughter and the minor child were in Florida, the Plaintiff provided direct financial support for the minor child when his daughter was unable to care for said child.

20. The Court finds that, based on the testimony and evidence presented, there is clear and convincing evidence that the Plaintiff is a *de facto* custodian of the minor child, as there were periods that the Plaintiff was the primary caregiver for and financial supporter of the minor child, and that the minor child resided with the Plaintiff (and the minor child's mother) for a period of one year or more.

21. Once the Court determines the Plaintiff is a *de facto* custodian of the minor child, it must next determine whether the Defendant is unfit. *See Kay v. Rowland*, 285 S.C. 516, 331 S.E.2d 781 (1985) ("Thus, we recognized the superior rights of a natural parent in a custody dispute with a third party. Once the natural parent is deemed fit, the issue of custody is decided."); *see also Camburn v. Smith*, 355 S.C. 574, 579, 586 S.E.2d 565, 567 (2003) ("It is well-settled that parents have a protected liberty interest in the care, custody, and control of their children. This is a

#8
PKS

fundamental right protected by the Due Process Clause. *Troxel v. Granville*, 530 U.S. 57, 65–66, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000).”).

22. The Defendant was born and raised in Spartanburg County, South Carolina. He was 33 years old at the time of the Final Hearing. He is employed with Trelleborg, as a machine operator, floater, and lead-man, which is in Rutherfordton, North Carolina. His gross monthly income according to his most recent Financial Declaration is \$4,628. He has immediate family in Spartanburg County, South Carolina, where he lives, with whom he enjoys close relationships and frequent contact, and who provide him support in helping to care for the minor child. He has no criminal convictions, nor is he involved in any other litigation. He does not have any substance abuse issues, and has never received treatment for any substance abuse issues.

23. The Defendant is the father of two other minor children, and I find from the testimony and evidence that he enjoys a civil, working relationship with the mother of the middle child with respect to custody of said child. It further appears from the testimony and evidence that at the time of the Final Hearing he was living with the mother (of his youngest child), whom he refers to as his fiancée. However, the Court is unsure of the status of said relationship, as the Defendant testified that upon the sale of their current home he and the mother of the youngest child would be living in separate residences until they purchased a new residence. While the Guardian *ad Litem* had concerns with the status of this relationship, the Court finds that the status of this relationship does not bear on its determination of the Defendant’s parental fitness. While the Defendant’s unsettled living arrangement does cause concern, it does not render the Defendant unfit as a parent.

24. I find from the testimony and evidence that the Defendant has been involved with the minor child, beginning shortly after his birth and continuing to present. It is also clear from the

testimony and evidence that the Defendant's family became involved with the minor child from shortly after his birth to present.

25. The Court finds that during the periods of time the minor child's mother and the child were living in Florida with the Plaintiff the Defendant did not send any type of direct support, gifts, or visit with minor child. Nonetheless, while the Defendant may not have sent any direct support for the minor child, it is apparent that he provided health insurance and listed the minor child as a beneficiary on his life insurance policy. Further, while the Defendant did not send gifts directly to the minor child when he was in Florida, it is apparent that the Defendant did maintain contact with the mother and the minor child, and gave gifts to the minor child when he returned to South Carolina. The Court recognizes that the Defendant did not do much in the way of support or contact with the minor child when the child was with his mother in Florida. However, when the child was present in South Carolina the Defendant was involved in his life and provided both support and contact.

26. During the Final Hearing, the Plaintiff entered into evidence a series of text messages between the Defendant and the minor child's mother prior to her death in August 2015. These text messages clearly indicate that the Defendant and his family were involved with the minor child. The text messages also indicate that the Defendant provided support for the minor child to the biological mother. For instance, in one series of text messages, the minor child's mother stated the minor child needed shoes for the upcoming school year, to which the Defendant responded by stating he would purchase the shoes. These text messages also indicate that the Defendant's delay in responding to the biological mother resulted from the dynamics of their relationship. It appears that the biological mother wanted a relationship with the Defendant, but that he was not interested in having a relationship with her.

27. Nonetheless, despite their relationship dynamics, the minor child's mother and the Defendant maintained a civil, working relationship for the sake of the minor child, and the mother relied on the Defendant, and his family, to provide care and support for the minor child. Further, during times when the minor child's mother and the minor child were in South Carolina, the Defendant and his family were involved with caring for the minor child.

28. In addition to the concern about the Defendant's current relationship, the Guardian *ad Litem* also expressed concern that the Defendant was not present at the birth of the minor child and that he did not visit the minor child in the hospital following his birth. The Court finds that the testimony and evidence indicate that the mother was involved in a relationship with another man at the time of the conception and birth of the minor child, and that the Defendant was unsure of the minor child's paternity. Thus, the Court does not believe this to be an issue of concern regarding the Defendant's parental fitness.

29. The Guardian *ad Litem* also expressed concern with the fact that the minor child did not attend his mother's memorial service. The Court finds that because the Plaintiff had filed an action in Florida seeking custody of the minor child, and one of the Plaintiff's daughters sent a text message to the Defendant stating they did not wish to discuss whether the Plaintiff or she were attempting to "take" the minor child, the Defendant was fearful that the minor child would not be returned from Florida following the memorial service. Thus, the Court does not find this to be an issue of concern regarding the Defendant's parental fitness.

30. Based on the testimony and demeanor of the witnesses and the parties, and the evidence presented during the 9 day Final Hearing, the Court finds that the Defendant is a fit and proper parent of the minor child. Based upon the applicable case law and statutory law, the Court finds that primary custody of this minor child should be awarded to his father, the Defendant.

31. However, the Court finds that, as the Plaintiff has been determined to be a *de facto* custodian of the minor child and the Defendant is a fit and proper parent, there exist compelling circumstances that warrant the parties being made joint custodians of the minor child, with the Defendant being designated the primary custodian and the Plaintiff being designated the secondary custodian. Said designation shall occur within one week of the end of the 2016-2017 school year. The Defendant shall have final decision-making authority with respect to the minor child, and the Plaintiff designation as secondary custodian does not infringe upon said decision-making authority.

32. With the issue of custody being determined, the next issue to consider is the schedule of visitation the Plaintiff shall have with the minor child. *See* S.C. Code Ann. § 63-15-60(C) (“The family court may grant visitation or custody of a child to the *de facto* custodian if it finds by clear and convincing evidence that the child's natural parents are unfit or that other compelling circumstances exist.”).

33. There is a “...presumption that a fit parent’s decision is in the best interest of the child may be overcome only by a showing of compelling circumstances, such as significant harm to the child if visitation is not granted.” *See Camburn v. Smith*, 355 S.C. 574, 579, 586 S.E.2d 565, 568 (2003) (citing *Blixt v. Blixt*, 437 Mass. 649, 774 N.E.2d 1052 (2002); *Stacy v. Ross*, 798 So.2d 1275 (Miss. 2001)). Thus, “[i]n sum, parents and grandparents are not on an equal footing in a contest over visitation. Before visitation may be awarded over a parent’s objection, one of two evidentiary hurdles must be met: the parent must be shown to be unfit by clear and convincing evidence, or there must be evidence of compelling circumstances to overcome the presumption that the parental decision is in the child’s best interest.” *See Camburn*, 355 S.C. at 579—580, 586 S.E.2d at 568.

34. In the instant matter, it is clear from the evidence and testimony of the witnesses and the parties that the Plaintiff and the minor child have a close relationship, particularly since there were times prior to the filing of the action that the minor child, either directly or indirectly, relied on the Plaintiff for care and support. Further, the Defendant, in his *Answer and Counterclaim, Amended Answer and Counterclaim*, and testimony at the Final Hearing, stated that he believed that the Plaintiff should have reasonable and specified periods of visitation with the minor child, based upon the belief that it would be in the minor child's best interests, provided that it would be subject to restrictions on the Plaintiff that would prevent the Plaintiff from undermining the Defendant's decision-making authority as the minor child's natural father and custodial parent.

35. Thus, based upon the foregoing and as set forth above, and its finding that the parties are to be joint custodians of the minor child, with the Defendant being designated the primary custodian and the Plaintiff being designated the secondary custodian, the Court finds that there are compelling circumstances that warrant the Plaintiff having reasonable and specified visitation with the minor child, as set forth below.

THE PLAINTIFF'S VISITATION SCHEDULE

36. Based upon the foregoing, the Court finds that the Plaintiff is entitled to the following visitation privileges with the minor child:

Summer 2017

37. The minor child shall remain in Florida until the 2016-2017 school year ends on May 24, 2017. Approximately one week after the 2016-2017 school year ends (June 2, 2017), the minor child shall return to South Carolina where he shall stay for a period of three weeks. By 6:00 p.m. on June 24, 2017, the minor child shall return to Florida for visitation with the Plaintiff until 2 weeks prior to the start of the 2017-2018 school year in Spartanburg County, South Carolina. By

6:00 p.m. on July 31, 2017, the minor child shall return to South Carolina where he will attend school and reside with the Defendant. The Plaintiff is responsible for all costs and expenses associated with this summer visitation.

REGULAR/SCHOOL YEAR VISITATION SCHEDULE

Fall 2017

38. Until January 1, 2018, the Plaintiff shall have up to 2 weekends per month with the minor child, with a preference for the second and fourth weekend of each month. The preference for the second and fourth weekend shall be subject to change based on the occurrence of any long-weekends (e.g., Federal/State holidays or Teacher In-Service days), or the Holiday Visitation schedule set forth below. Should such a long-weekend occur during one of these months, it shall count as one of the Plaintiff's two weekends, and the additional weekend shall be the alternating weekend (i.e., the Plaintiff shall not be entitled to two consecutive weekends or more than two weekends per month). This visitation shall begin at the end of the school day on the last day of school beginning the weekend and end at 6:00 p.m. on the day before school resumes. If the Plaintiff is unable to exercise visitation on these weekends, he is to notify the Defendant 7 days in advance. This weekend visitation with the minor child may take place in either South Carolina or Florida, but the Plaintiff is responsible for all costs and expenses associated with same, including, but not limited to, transportation. The Regular/School Year visitation schedule shall be superseded by other specific visitation set forth herein; and the party not having the specific visitation/parenting-time period shall have the following weekend.

January 2018 Forward

39. Beginning in January 2018, the Plaintiff shall have visitation with the minor child 1 weekend per month. This weekend visitation with the minor child may take place in either South

Carolina or Florida, but the Plaintiff is responsible for all costs and expenses associated with same, including, but not limited to, transportation. This period of visitation shall be defined as the first full weekend of the month, and shall begin from the time school lets on the Friday of the weekend and continue until 6:00 p.m. on the day prior to school resuming. If there is a Federal or State holiday or Teacher In-Service day during the month, then the Plaintiff shall have that weekend instead of the first full weekend, and his visitation shall include the Monday the holiday is celebrated until 6:00 p.m. or shall start after school on the Thursday night before the Friday the holiday is celebrated. The Plaintiff shall be responsible for all costs and expenses associated with this visitation, including, but not limited to, transportation. If the Plaintiff is unable to exercise this visitation with the minor child, he shall notify the Defendant of the same 7 days in advance of the visitation period. The Regular/School Year visitation schedule shall be superseded by other specific visitation set forth herein; and the party not having the specific visitation/parenting-time period shall have the following weekend.

HOLIDAY VISITATION SCHEDULE

Spring Break

40. The Spring Break holiday shall commence after school on the Friday school lets out prior to the holiday and shall continue until 6:00 p.m. on the day prior to school resuming. The Plaintiff shall have visitation during the Spring Break holiday in the odd-numbered years, and he shall be responsible for all costs and expenses associated with his Spring Break visitation, including, but not limited to, transportation. The Defendant shall have parenting time with the minor child during the Spring Break holiday in the even-numbered years.

Thanksgiving

41. The Thanksgiving holiday shall commence when the minor child is let out of school for the holiday and shall end at 6:00 p.m. on the Sunday immediately following Thanksgiving day. The Plaintiff shall have visitation with the minor child during the Thanksgiving holiday in the even-numbered years, and he shall be responsible for all costs and expenses associated with same, including, but not limited, to transportation. The Defendant shall have parenting time with the minor child during the Thanksgiving holiday in the odd-numbered years.

Christmas

42. The Defendant shall have parenting time with the minor child during Winter Break of each year, from the time school lets out for the holiday until to December 26 at 2:00 p.m. The Plaintiff shall have visitation with the minor child during Winter Break of each year, beginning at 2:00 p.m. on December 26 and ending at 6:00 p.m. the evening prior to school starting back, and he shall be responsible for all costs and expenses associated with his Winter Break visitation, including, but not limited to, transportation.

Summer

43. The Plaintiff shall have 6 consecutive weeks of visitation with the minor child during the summer holiday, and he shall be responsible for all costs and expenses associated with same, including, but not limited to, transportation. His summer visitation with the minor child shall commence on the Friday of the second full-week in June and shall continue for the next 6 weeks, after which the minor child shall be returned to South Carolina for the remainder of the summer holiday.

#16
DKS

Real
This

GUIDELINES, INSTRUCTIONS, AND RESTRAINTS

44. The Defendant shall take the child to counseling with Kim Rosborough, with Turning Leaves for Children, located at 601 W. Main Street, Spartanburg, SC 29301, at least one time per month for grief counseling and to assist with the transition from Florida to South Carolina. The minor child shall continue to attend such counseling until the counselor determines that the goals of the counseling have been accomplished. Both parties shall be allowed to participate in and both are required to cooperate with this counseling. The Plaintiff shall have access to the minor child's counseling records, and shall be able to speak with the counselor about the minor child and his counseling

45. *Telephone/Email Contact:* Both parties shall have reasonable, and always private, Skype/FaceTime, telephone, email contact with the minor child; and, such type of communication shall occur at least two times per week. Email is limited to age appropriate use and ability to use a computer, but does not require the purchase of a computer by either party.

46. *Important Events:* Both parties have an affirmative duty to timely notify the other party of any reasonably important event occurring while the minor child is in their care, such as, but not limited to, extracurricular activities, baptisms, sporting events, school plays, graduations, award ceremonies, etc. Both parties may attend all such events. When in doubt, the other party shall be given notice.

47. *Access to Records:* Both parties shall have full and complete access to all medical providers, school personnel, coaches, and other professionals involved in the minor child's life and shall be allowed to review records and/or discuss the minor child's circumstances and needs with these people. Each party shall inform the other party of the identity of such people and how to contact such people. Each party shall permit and encourage communication with teachers,

administrators, health care professionals, counselors, therapists or any other individual involved with the minor child. Each party shall have an affirmative duty to list the other (along with the contact information) on any paperwork filled out for the benefit of or on behalf the minor child.

48. *Medical Emergencies:* In a medical emergency, the Plaintiff may make appropriate decisions and is hereby granted authority to and shall sign appropriate documents to protect the health and welfare of the minor child when visiting with the Plaintiff. This is not to undermine the Defendant's legal authority to make appropriate decisions. The Plaintiff shall make reasonable efforts to contact the Defendant, but shall have the authority to act and shall not delay in protecting the minor child from imminent danger. Each person shall provide and sign such information and forms as required and not otherwise reasonably available to the other parent to allow fulfillment of this Order. This includes, but is not limited to, such items as insurance cards, school schedules, flight schedules, medical appointments, work schedules, prescription medications, releases of information, etc.

49. All parties are restrained against having any form of physical or verbal confrontation or allowing another to do so in front of the minor child.

50. All parties are restrained against excessively consuming or being under the influence of alcohol (defined the same as might apply to driving under the influence), the consumption of any illegal drug, or the abuse of any prescription drug or allowing another to do so while the minor child is under his care.

51. All parties are restrained against making any derogatory comments about or toward the other party or allowing anyone else to do so in front of the minor child or in any manner whereby the minor child might learn of the same.

52. During pending litigation about the minor child, the parties shall not discuss any details about the litigation beyond acknowledging the existence of the same. Further if the litigation is between the parties and involve adult matters not directly relating to the minor child, the parties shall not discuss the litigation with the minor child. In no case shall the parties unnecessarily involve the minor child in the litigation. Once an Order is issued, the details of it shall not be discussed with the minor child except to acknowledge its existence and that it must be complied with. The only exception to this restraining order is when the minor child is in counseling or under psychological/psychiatric care and the minor child's provider believes it is in the minor child's therapeutic best interest to discuss the same but this may be done only in that limited context absent a written order to the contrary.

53. All parties are required to keep the minor child in a moral and safe environment at all times.

54. All parties are required to see that the minor child while in their care receives proper medical attention and appropriately takes prescribed medications or reasonably necessary medical treatments. The parties shall ensure that the minor child while in their care attends any scheduled medical appointments and shall exchange medications which are to be taken, all as might be reasonable and appropriate and in compliance with their religious beliefs, a specific court order, or the law.

55. All parties are required to see that the minor child while in their care properly attends school and is not out of school in violation of any educational requirement of this State.

56. All parties are restrained against conduct detrimental to the minor child of any nature relating to the needs of a given minor child, such as not smoking around a child who is asthmatic.

57. One party shall not schedule nor allow others to schedule elective matters to do with the minor child on or during the other party's time.

58. At all times the minor child shall be properly supervised and not left with babysitters who are not appropriate by way of age, conduct, history, or otherwise of which a parent or custodian or visiting party has knowledge, should have knowledge or may with reasonable efforts have gained knowledge.

59. All parties are restrained against allowing the minor child to see or be exposed to age-inappropriate movies, computer access or websites, games or other such material or forms of entertainment and shall take all reasonable precautions against the same. In no case shall the children be exposed to any X-rated or pornographic material or R-rated movies. The parties may use discretion as to children sixteen (16) and over as to R-rated movies.

ATTORNEY'S FEES, SUIT MONEY, AND COSTS

60. The Defendant sought an award of attorney's fees, suit money, and costs from the Plaintiff in addition to the issues addressed above.

61. The Court received an *Affidavit in Support of the Defendant's Request for Attorney's Fees, Suit Money, and Costs* from the Defendant's attorney attesting to \$79,087.50 in total attorney's fees and \$3,186.02 in litigation costs incurred in connection with this action. In addition to those fees and costs, the Defendant, through testimony and evidence, demonstrated that he incurred additional fees and litigation costs in the amount of \$14,936.98, which resulted from defending against the Probate Court action filed by the Plaintiff in Florida, being legally declared the father of the minor child, and his prior representation in this matter. This results in the total amount of attorney's fees and costs incurred by the Defendant being \$97,210.50.

62. The Court finds that the Defendant is entitled to an award of attorney's fees and litigation costs. The Court further finds that the number of fees and litigation costs incurred by the Defendant are reasonable given the circumstances of this action and the factors considered by the Court, as discussed below. The Court notes that the attorney fees and costs incurred by the Plaintiff exceeded \$141,000. He also incurred approximately \$50,000 in expert witness and detective fees.

63. In deciding whether to award attorney's fees, this Court has considered: (1) each party's ability to pay his own fees; (2) the beneficial results obtained by the attorney; (3) the parties' respective financial conditions; and (4) the effect of the fee on each party's standard of living. *See Feldman v. Feldman*, 380 S.C. 538, 670 S.E.2d 669 (Ct. App. 2008); *E.D.M. v. T.A.M.*, 307 S.C. 471, 415 S.E.2d 812 (1992).

64. The Court has also considered the (1) nature, extent and difficulty of the case; (2) the time necessarily devoted to the case by the Defendant's counsel; (3) the professional standing of the Defendant's counsel; (4) the contingency of compensation; (5) the beneficial results obtained by the Defendant's counsel; and (6) the customary legal fees for similar services. *See Feldman v. Feldman*, 380 S.C. 538, 670 S.E.2d 669 (Ct. App. 2008); *Glasscock v. Glasscock*, 304 S.C. 158, 403 S.E.2d 313 (1991). The nature, extent and difficulty of the case are discussed at length above. The time devoted by the Defendant's attorney and staff has been significant, but clearly necessary to respond to the Plaintiff's allegations and to protect the Defendant's interests. The Court finds the Defendant's attorney enjoys a solid standing in the legal community, that he regularly appears before the Court, and that he has diligently represented his Client's interests in this action. The hourly rates charged by the Defendant's attorney and staff are within the range of rates charged in the area for representation in matters before the Family Court. A review of the numerous proceedings in this matter, as well as the results obtained by the Defendant in this Order,

establish that the Defendant's attorney has consistently prevailed in matters litigated before this Court. At the Final Hearing in this matter, the Defendant prevailed on the most contested issue in this matter — custody of the minor child. Thus, the Court finds that the attorney's fees and costs incurred by the Defendant in this matter are reasonable given the circumstances of this action.

65. The Court finds that the Plaintiff shall be required to pay the Defendant attorney's fees and litigation costs in the amount of \$10,000.00. This sum shall be paid in full to the Defendant's counsel of record (The Stevens Firm, P.A., 349 East Main Street, Suite 200, Spartanburg, South Carolina 29302 or The Stevens Firm, P.A., Post Office Box 6158, Spartanburg, South Carolina 29304) no later than 90 days following the date of written notice of entry of this Order to the Plaintiff's counsel of record.

GUARDIAN AD LITEM FEES AND COSTS

66. The Guardian *ad Litem* seeks payment for fees and costs in connection with her services in this matter. The Guardian *ad Litem* has incurred total fees and costs in this matter of \$20,718.27 as documented by the accounting submitted to the Court and by the testimony of the Guardian *ad Litem*. At the time of the Final Hearing, the Guardian *ad Litem* had been paid a total of \$4,856.13 by the Plaintiff and a total of \$4,856.13 by the Defendant, leaving a balance of \$11,006.01. According to the testimony of the Guardian *ad Litem* and the accounting provided to the Court by the Guardian *ad Litem* (who has been licensed and practicing as a Family Court attorney since 1994), she has devoted 79.35 hours to her investigation at the hourly rate of \$200.00 per hour, for total fees of \$17,670.00 She has also incurred costs of \$3,048.27.

67. The Guardian *ad Litem* is entitled to reasonable compensation subject to the review and approval of this Court. *See* S.C. Code Ann. § 63-3-850(B). In determining the reasonableness of the fees and costs incurred by the Guardian *ad Litem*, this Court must consider (1) the

#22
DKS

complexity of the issues before the Court; (2) the contentiousness of the litigation; (3) the time expended by the Guardian *ad Litem*; (4) the expenses incurred by the Guardian *ad Litem*; (5) the financial ability to of each party to pay fees and costs; and (6) any other factors the Court considers necessary. See S.C. Code Ann. § 63-3-850(B).

68. The Guardian *ad Litem* was appointed to serve as the Guardian *ad Litem* for the minor child by Order of this court as set forth above. The Guardian *ad Litem*'s fees were initially capped at \$6,000.00. That cap was subsequently raised to \$10,000.00 by *Consent Order Raising Guardian ad Litem Fee Cap* filed on January 30, 2017. Each of the above Orders required the parties to equally divide payment of the fees and costs charged by the Guardian *ad Litem*.

69. The Guardian *ad Litem* has conducted her investigation pursuant to the requisite statutes and Orders of this Court. She has represented the minor child's best interests; submitted written reports; and otherwise fulfilled her duties, obligations, and requirements imposed by S.C. Code Ann. § 63-3-830 *et seq.* and the prevailing case law of this State.

70. The Guardian *ad Litem* has conducted numerous interviews and reviewed voluminous documents through her investigation in this matter, which were listed in her reports and filed with this Court.

71. The Guardian *ad Litem* had conducted several home studies with the parties and the minor child, and has attended all hearings in this matter wherein issues pertaining to the minor child were addressed. She also prepared reports in this matter prior to the Final Hearing in this matter, including the *Guardian ad Litem Report* filed with the Court on November 21, 2016 and the *March 6, 2017 Report of Guardian ad Litem* filed with Court on March 7, 2017.

72. The Court finds that the Guardian *ad Litem* is entitled to payment in full of the fees and costs she seeks, in the total amount of \$20,718.27. The Court finds that the Plaintiff and the

Defendant shall each be responsible for one-half of this amount, or \$10,359.13 (each), less the amount of any payments made thus far by either party to the Guardian *ad Litem*. Accordingly, each party shall pay \$5500.00 directly to the Guardian *ad Litem* no later than 30 days following the date of service of this Order on the parties, unless the Guardian *ad Litem* agrees to other terms or schedule of payments.

2017 MAY 9 PM 4:02
CLERK OF SUPERIOR COURT

73. Effective with the date of this Order, the Guardian *ad Litem*'s appointment in this matter terminated, with no further services or obligations to be required of her as to the minor child, unless there are any post-trial motions (not to include any possible appeal). If there are any post-trial motions in this matter, the Guardian *ad Litem*'s appointment shall terminate upon the issuance of any orders regarding said motions.


IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

- A. Pursuant to S.C. Code Ann. § 63-15-60(A)(2), the Plaintiff is a *de facto* custodian of the minor child;
- B. The Defendant is a fit and proper parent to have custody of the minor child;
- C. The Plaintiff and the Defendant shall have joint custody of the minor child, with the Defendant being designated as the primary custodian and the Plaintiff being designated the secondary custodian. The Defendant shall become the primary custodian when physical custody is transferred on June 2, 2017;
- D. Compelling circumstances exist that warrant the Plaintiff having liberal specified visitation with the minor child. The Plaintiff shall have visitation privileges with the minor child as set forth in paragraphs 37 through 43 above;
- E. The Plaintiff shall be responsible for all costs and expenses associated with his visitation privileges with the minor child;
- F. The parties are subject to and shall comply with the Guidelines, Instructions, and Restraints set forth in paragraphs 44 through 59 above;
- G. The Plaintiff shall pay the Defendant attorney's fees and litigation costs in the amount of \$10,000.00 as set forth in paragraph 65 above;
- H. The Plaintiff and the Defendant shall each be responsible for payment of the Guardian *ad Litem*'s fees and costs as set forth in paragraph 72 above;

#24
DKS

- I. Effective with the date of this Order, the Guardian *ad Litem*'s appointment in this matter is terminated, with no further services or obligations to be required of her as to the minor child, apart from any post-trial motions as set forth herein.

IT IS SO ORDERED this 9th day of May, 2017, at Spartanburg,
South Carolina.


THE HON. PHILLIP K. SINCLAIR
PRESIDING JUDGE, FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

FILED
MAY 11 2017
11:4:02

A CERTIFIED COPY
M Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY SCOUSMO D.C.
DATED 5-9-17

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Steven K. Alukonis)
)
 vs. Plaintiff,)
)
 Wayne K. Smith, Jr.,)
)
 Defendant.)

IN THE FAMILY COURT
 SEVENTH JUDICIAL CIRCUIT

SUPPORT INFORMATION SHEET

Docket No. 2015-DR-42-2977

Check appropriate box:

- No spousal or child support ordered. (No other items should be completed.)
- If support is ordered to be paid directly or through the Court, you must complete **BOTH** pages (as applicable).

MAY 14 2015
 9 PM 14:02

Obligation Type	Child Support	Spousal Support	Other
Amount	\$	\$	\$
Collection Costs (5%)	\$	\$	\$
Payment Frequency			
Payment Start Date			
Weekly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bi-weekly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monthly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Semi-monthly (1st & 16th)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Semi-monthly (15th & 30th)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Total Arrearage Amount	\$	\$	\$
Wage Withholding			
Required by S.C. Code Ann. §63-17-1420	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ordered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Not Ordered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Name of Custodial Parent (if applicable): _____

*******OBLIGOR'S DESIGNATION STATEMENT: PAYMENT OF COURT COSTS*******

I acknowledge that S.C. Code Ann. § 63-3-370 requires that I pay and the Family Court has ordered that I pay court costs in an amount equal to five (5) percent of any support payment made through the Clerk of Court or the centralized wage withholding system. I owe and will pay these costs in addition to my support obligation.

To meet my duty to pay court costs, I designate an amount equal to five (5) percent of the support payment I make to be applied and distributed in payment of court costs, not support.

I acknowledge the Clerk of Court or, if payments are withheld from my income, the centralized wage withholding system to deduct the fee from every payment made by me or on my behalf.

I acknowledge that should I not pay the full amount due, that an arrearage will accrue and that the Clerk of Court may take enforcement action against me for failure to pay all amounts ordered by the Court.

If an amendment to the law changes the amount of court costs, this designation authorizes deduction of court collection costs in the amount established by law.

Date: _____, 20____

 Signature of Person paying Support**

****NOTE TO CLERK: FILE AND PROCESS THIS FORM EVEN IF SIGNATURE OF PERSON PAYING SUPPORT IS NOT PROVIDED.****

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Steven K. Alukonis,)
)
Plaintiff)
)
v.)
)
Wayne K. Smith, Jr.,)
)
Defendant)

IN THE FAMILY COURT OF THE
SEVENTH JUDICIAL CIRCUIT

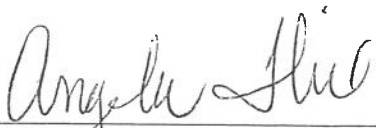
AFFIDAVIT OF ANGELA HILL

Ca. No.: 2015-DR-42-2977

PERSONALLY, appeared before me, the undersigned, who being duly sworn, deposes and says:

I, Angela L. Hill, have known Wayne Smith for approximately 7 almost 8 years. I met Wayne when he was dating my friend, Katelyn Marie Alukonis, before his son [REDACTED] was born. Wayne is a very nice person with a good heart. Before [REDACTED] was born Wayne was a great uncle and dad. After [REDACTED] was born Wayne became an even better father. Wayne gets [REDACTED] every day when he gets off of work.

Wayne takes [REDACTED] out eat, plays outside with him, shows him how to fish and hunt like good old country boys. Wayne takes [REDACTED] to church and spends time with him like a father is supposed to. On holidays if Wayne has to work he would still take the time out to spend it with [REDACTED]. [REDACTED] would cry sometimes just to be with his dad. He loves his dad and spending time with him. Being with his dad and also being able to see and spend time with his siblings, cousins, and family is something [REDACTED] loves. No one ever forced Wayne to be a father to [REDACTED] he did it on his own. He made sure his son was always taken care of whether it meant buying diapers, formula, wipes, bibs, and etc. when he was younger until now buying clothes, putting him on his insurance, taking him to the doctor when he is sick. As long as I've known Wayne he has always been a great father and his son needs him now more than ever because his mother passed away. Wayne is a great father and has always been a great father.



Angela Hill

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Steven K. Alukonis,

Plaintiff,

- vs -

Wayne K. Smith, Jr.,

Defendant.

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

AFFIDAVIT OF PLAINTIFF
2015-DR-42- 2977

Affidavit of Steven K. Alukonis

My daughter, and the mother of the child at issue herein, Katelyn Alukonis committed suicide August 18, 2015, in Inman, SC. Her son, [REDACTED], is five years old. As the maternal grandfather I have emotionally and financially supported [REDACTED] since his birth. He is comfortable with, and loved deeply, by myself and our family. I was with [REDACTED] a day after he was born and stayed with him while he was in the Neonatal Intensive Care Unit that week. [REDACTED] and Kate moved to Florida into my home a few weeks later. [REDACTED] lived in my house for approximately 42 out of 62 months of his life including a 14 month span before Katelyn's passing. Being the sole owner of a chiropractic medical practice, I was able to reduce my work hours without reducing my earnings so that I could fully focus on [REDACTED] upbringing. I changed diapers and fed him bottles. As he got older, I cooked eggs and bacon for breakfast each day, made his lunch, and cooked a nutritious dinner each night. I drove him to and from preschool and helped him with school work and school projects. Each day after school, we would go to [REDACTED] and often to the beach. On weekends, we would think of something educational, interesting, and new for [REDACTED] such as the [REDACTED] Zoo, [REDACTED], boating, kayaking, and [REDACTED] children's educational play

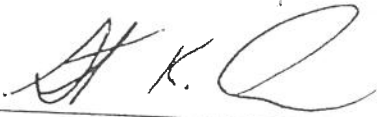
center. We went to the library every Tuesday to read and put on puppet shows. We spent a lot of time playing sports either at the beach or in front of the house in the cul-de-sac. I taught [REDACTED] how to throw and catch a baseball, football, and frisbee and how to hit a baseball and tennis ball. We would go boogie boarding in the ocean and I taught him how to fish in the canal behind our home. [REDACTED] loved to grab the live shrimp so we could put it on the hook and he would cast his own fishing line. [REDACTED] and I would often go to Walmart to buy clothes, socks, underwear, and school supplies. I remember buying him new sneakers as he went from infant and toddler sizes then to sizes 4, 6, 7, 8, 9, and 10. We would get a special treat like a toy car, Play Doh, or a game in the toy section. I introduced [REDACTED] to the piano and guitar letting him try playing each instrument and teaching him how to play. He loved playing with his friends that he met in Pre-Kindergarten at the beach, park, or at their homes. Jane, Emma, and I would take [REDACTED] to a local farm where he chased chickens, fed cows, goats, and pigs. In the evenings, I would give him a bath and let him play with his bath toys. Next, we would watch television for half an hour, then I would read four of his favorite books each night. He loved *The Very Hungry Caterpillar*, *Where's the Dragon?*, *Green Eggs and Ham*, and *Rainforest Colors*. Following, I would tell him a night time story that I would make up just like I did with my other children when they were his age. I would give him a kiss goodnight and he would peacefully fall asleep in his own bedroom. As you can see, I am able to adjust my work schedule so that I can spend an abundant amount of time engaging [REDACTED] in activities that enrich his life, make him feel loved, and further his development and education.

Wayne K. Smith Jr. is the alleged father of [REDACTED]. He has shown essentially no interest in [REDACTED] until the week following Kate's passing. He denied being [REDACTED] biological father and therefore was not listed as [REDACTED]'s father on the birth certificate,

did not claim paternal rights (until after Kate's death), and has not supported [REDACTED] financially or emotionally for the past five years. He has not bought [REDACTED] Christmas presents or birthday gifts. [REDACTED] had never spent the night with him. Indeed, he would go many months, perhaps even over a year, without seeing or talking to [REDACTED]. Even when [REDACTED] and Kate were in South Carolina for the six weeks before Kate's passing Wayne made no effort to see [REDACTED] apart from attending a birthday party that was fully funded by me with food, drink, and a bouncy house. Following Kate's passing, Wayne seized [REDACTED] and is denying him from his familiar environment. It is my understanding that Wayne does not live in his own house, but lives with his girlfriend and their infant daughter. On September 20th, Jane Alukonis, [REDACTED] aunt, visited Spartanburg to see [REDACTED]. During this visit, [REDACTED] insisted he wanted to go back to Florida about four or five times. When Jane said she had to leave, [REDACTED] begged to come with her and for her to take him to Florida. Wayne's father insisted that [REDACTED] needs his father and that he needs a man in his life and that he will raise [REDACTED]. Following this encounter, Wayne denied me contact with [REDACTED] via visitation or phone conversation. This is detrimental to [REDACTED] wellbeing - not only did [REDACTED] just experience the catastrophic loss of his mother he was also abruptly cut off from his only familiar caretakers and put into an unfamiliar environment. Additionally, Wayne Jr. and his father Wayne Sr. promised they would bring [REDACTED] down to Kate's memorial service but did not show up. They also refused to let any of the Alukonis' take [REDACTED] to his mother's service. As it stands, the Smiths have denied all contact from [REDACTED] since August 20th. They are not responding to our family regarding working out an agreement.

We are seeking a resolution that is in the best interest of [REDACTED]. We believe this would include allowing [REDACTED] to be in my care and in the care of the only family he has

ever known and has been the primary caretakers of [REDACTED] for most of his life. We encourage a relationship between Wayne and [REDACTED] but it is not in [REDACTED] interest to reside with Wayne full time. Wayne has two other children that I know of, by two different women. I am not sure of any financial or other care he has given to them. Wayne cut [REDACTED] from his familiar environment and loving caretakers which is extremely detrimental to [REDACTED] wellbeing, especially following the catastrophic loss of his mother. I have arranged for [REDACTED] to meet with Dr. Donald Stewart, a clinical psychologist to help [REDACTED] understand and grieve the loss of his mother. We are seeking a resolution that is best for [REDACTED] We believe this includes me, as his grandfather, having physical custody of [REDACTED] with Wayne being a part of [REDACTED] life.



Steven K. Alukonis

SWORN to before me this

3rd day of November, 2015

Victoria S. Emory
Notary Public for South Carolina
My commission expires: 1-16-24

I met Kate in 2007. She was living in Oak Forest Apts in Spartanburg, SC. and we had an on and off relationship until Jan. 2012. Kate was being supported by her father, Steve who in addition to providing her with credit cards required her to mail her bills to him each month.

The first time I met Kate's family was in 2008. Jane, Lotti and Steve would visit her at her apartment. Steve and Jane's mannerism and conversation were snobbish to say the least. The tone of Steve's voice went from jolly and cheerful as he engaged with the other two girls, to being monotone, intense and dry when addressing Kate. Her father's behavior towards her confirmed to me what Kate had told me several times, " I am the black sheep of my family.

Kate often spoke of her father's intense disapproval of her dating black men. Kate didn't see color, she enjoyed the company of people period no matter what race they were. Jane and Steve gave off vibes as if they felt superior to Kate and myself. However, Kate would bring Jane and Lotti to Crocs, a favorite bar Kate and I frequented whenever they came to town for a visit.

Feb 2009, Kate and I took a temporary break from our relationship. During this hiatus, Kate started seeing Wayne Smith, Jr, an associate of Lynne Greene's boyfriend.

Because our separation ended on good terms, we stayed in constant contact. Late September 2009, Kate and I began to see each other again, shortly after she informed me that she was pregnant and not sure who the father was.

Wayne was born prematurely on July 3, 2010, resulting in an extended stay in the hospital. Due to the dynamics of this situation, Wayne nor I attended the birth. Her sister Lottie was there when the baby was born.

Upon discharge Wayne and Kate returned to her apartment where Kate was cared for by her friends Amber, AJ, Rebecca and her sister, Lottie who stayed in SC to help out for a few days. Kate was also visited by her dad Steve and her other sister Jane.

Wayne requested and paid for a DNA paternity test on July 18, 2010 and was confirmed as Wayne's father.

Kate and I continued our relationship and remained together until late November of 2012.

I describe Kate's relationship with Wayne as amicable considering the circumstances. They had issues but worked together for the sake of Wayne. I didn't allow her to discuss their financial arrangements because that was not my business. I never took care of any of Wayne's personal needs such as milk, diapers, child care etc. as an infant or toddler because Kate and Wayne made sure he was provided for.

Kate allowed Wayne to spend a lot of time with his father and the paternal Smith family from birth. Kate and Wayne were treated well by the Smith family. Kate often spoke of how

appreciative she was of the way they welcomed and embraced her and [redacted] She was grateful to have Wayne, his parents, his sisters and brother, grandmother and even a cousin available to help out with [redacted] whenever she needed it.

The Smith families owned adjacent properties at two locations. Kate dropped and picked up [redacted] between the two locations and also, Aunt Marquitta's house. Kate would speak of having a difficult time getting [redacted] to leave from his Auntie Marquitta's home where his cousins [redacted] and [redacted] resided who called and treated him like their 'lil brother".

When Mr. Smith was at home recovering from a fall in 2012, without hesitation, he agreed to babysit a 2 year old toddling [redacted] each day while Kate and Wayne worked. He also agreed to babysit [redacted] while Wayne was at work when Kate went to Texas for Lottie's graduation.

Kate and I ended our romantic relationship in late November 2012, however, we remained friends. She and [redacted] would periodically drop by my home to visit up until the time she passed away.

Kate picked me up one day, in May of 2014 to go with her to pick up something from her little white house at [redacted] SC. I remember her in her Sport Clips uniform.


When Kate moved back to Florida in June of 2014, I was confident she would be back. While she was there, we kept in contact.


January or February of 2015, Kate may have had a breakdown while in Florida. She called me very upset. She spoke of harming herself. I gave the phone to my mother to pray for her and to try to calm her down. Shortly after that she moved back to SC.

The last time I saw Kate alive was a few days after the 4th of July in 2015. She had moved back to SC and she and [redacted] dropped by my house to see me. She looked happy and healthy.

It was a sad day when I learned of her death. Kate was a vibrant personality, full of life, the life of the party, fun and loyal. Kate didn't stay down. She was always striving to do better, be better. You could not find a better friend than her. And she loved [redacted] with her whole entire heart and being. He was the joy and center of her life. Everything Kate did was centered around what was best for [redacted]

Signed, this 23rd day of October, 2020


Dustin Caldwell

Eddie Caldwell SR

Notary Signature

OCT. 23rd 2020
Seal/Stamp/Date

photos
attached
note notes

4

Jane Alukonis (Braylon's Maternal Aunt) Testimony

Kate and my father have been [REDACTED]'s primary caretakers for the past five years, with me being the third most involved person in [REDACTED]'s life. I lived with Kate and [REDACTED] for the first five months of [REDACTED]'s life and from June 2014 - June 2015. [REDACTED] is the joy and focal point of our family. We spent many days together fishing, playing sports, reading, kayaking, boating, watching Power Rangers, and swimming. We love him more than anything and he feels the same about us.

The relationship between [REDACTED] and my father is one of the most beautiful I have ever seen. Besides his mother, my father is the only one [REDACTED] will hug or kiss. When I studied developmental psychology at Duke University I learned the basic needs of children such as attachment, love, security, the need to feel respected, understood and valued, etc. My dad far exceeds all of these when it comes to [REDACTED]. He makes [REDACTED] feel like the most special person in the world.

Weekdays consisted of my dad waking up early to cook [REDACTED] breakfast, taking him to and from school, staying in communication with his teachers, and helping with homework. My dad and [REDACTED] and any other family members who wanted to join often played sports or games together - basketball, baseball, football, tennis, catch, or cards or monopoly. Around 7:30 p.m., my dad would watch television with [REDACTED] for half an hour, then read books, and rub his head or back until he went to sleep. On a few occasions, I put [REDACTED] to bed and he kept telling me, "This is how Grandpa does it. Do it like Grandpa does it. Okay, now we read this book first. Now Grandpa rubs my back like this and tells me stories about Squeaky the Squirrel." It was clear my dad's routine was a comfort for [REDACTED]. It pains me to think about the fact that [REDACTED] is now

going to sleep each night without his mother or grandfather, in an unfamiliar environment with unfamiliar people.

Weekend mornings my dad and I would decide what enriching activity we could provide [REDACTED] to include the Brevard Zoo, beach, farm, book store, art show, fair, park, play center, air show, Gator Land and nature walks (see pictures in PowerPoint). [REDACTED] and my dad would often come to the soccer fields to watch games I was coaching and would play ball, play with airplanes, or go to the playground. My dad made sure to have meaningful and educational conversations with [REDACTED]. He would point things out and explain to me what my dad taught him, "Jane, that boat has a motor on it. For it to move, the motor moves around and around. There are other boats that don't have motors, like sail boats. They move other ways like with the wind. Grandpa taught me that." Parallel to helping [REDACTED] develop on a daily basis, my dad was saving up for his college tuition - he already has a Florida prepaid tuition account to pay for [REDACTED]'s college education. Additionally, days following Kate's death he met with psychology professionals to discuss how to get [REDACTED] top quality help to deal with the loss of his mother.

[REDACTED] taking after my dad and sister, has a heart of gold and goes out of his way to make people smile and laugh. To make his mom and me laugh he would often call me his "other mother". I know firsthand that no one can replace your mother, but if [REDACTED] returns to us, I will certainly be a daily supportive female figure in his life and provide him every ounce of love and care possible. Additionally, I am a certified elementary educator with degrees from Duke University and the University of Cambridge, and teaching credentials from Johns Hopkins University. As such, I take [REDACTED]'s education extremely seriously and would ensure he continued to develop and excel in his education and through his professional life.

The day following my sister's death I texted Wayne Smith Jr. to notify him I would be in South Carolina the next day to take care of Kate's belongings and I would like to see [REDACTED]. Wayne showed no sympathy and wrote back "Are you and your dad going to try to steal my son from me?" This was a shock to us as Wayne has not been involved in [REDACTED]'s life for the past five years. I remember feeling sorry for [REDACTED] when birthdays and holidays would come and he would never get anything from Wayne. I remember Kate being angry that Wayne never wanted to spend time with [REDACTED]. I remember how ardently Wayne denied being [REDACTED]'s father as he also had his girlfriend many months pregnant at the time of [REDACTED]'s birth. Why, after five years of ignoring [REDACTED], does he now want [REDACTED]?

Our family friend Bettie Kennedy accompanied me to see [REDACTED] on August 20th, 2015. We met [REDACTED] at Barbara's house (we are unsure if Wayne has a house as the address he has been providing to the courts is owned by his girlfriend). When [REDACTED] saw me he said, "I didn't know you knew how to get to South Carolina!" as if we were coming to rescue him. At least four times that evening [REDACTED] announced to the group he wanted to go to Florida. "I want you to take me to Florida. Your car is out there, I want to go with you guys to Florida." When I told [REDACTED] I had to leave he broke down crying and said he wanted to come and came out to the car with us and tried to get in. He continued to cry for about the next 15 minutes until we left, and [REDACTED] does not typically cry. Wayne has been blocking us from having any type of contact with [REDACTED] since. Wayne would not allow [REDACTED] to attend my sister's memorial service.

I contacted top child psychologists from Duke University and the University of Cambridge and they unanimously said the manner in which Wayne is handling this situation is hugely detrimental to [REDACTED] wellbeing. They also provided me with this information, "Virtually all studies that have followed large groups of children into adulthood have found that losing a parent

is associated with a wide range of poor outcomes such as depression, anxiety, drug use, and poor educational outcomes. However, a key factor in determining resilience is the environment that the child is embedded in following the loss, with positive and supportive relationships to help buffer the negative long-term effects." To this point we have groomed [redacted] into an educated, adventurous, curious young man with a heart of gold. We want more than anything to continue to help him flourish through our positive relationships focused around his development, education, and wellbeing. We are highly educated and upstanding individuals in our community who want to continue to provide [redacted] with a loving and enriching environment so that he too can thrive and make the world a better place. This is a stark contrast to the environment at the Smith's, where the children are dumped off on the 75 year old great grandmother (Barbara), told to stay in a room (with no toys) and entertain themselves, and if they make noise or come out of the room they are told they "better not or their ass will be beaten". Further, Barbara is living in her deceased brother's house as a full-time caretaker for his wife with Alzheimer's disease, making her housebound and unable to take [redacted] out to participate in enriching activities.

We are in an inexplicable amount of pain from losing Kate. Feeling like we lost [redacted] is even more excruciating. However, the worst part is knowing how much [redacted] must be hurting and how confused and worried he must be about his mother and us. [redacted] lost his mother and entire family in a day. He went from a warm environment centered around his happiness and development into a cold environment where kids are treated as an inconvenience. This would be catastrophic for anyone, especially a five year old child. Please do what is best for [redacted] and return him to the family that loves him more than anything and will do anything in the world to help him live a happy and fulfilled life.



[Handwritten signature]

State of Florida County of Brevard

The foregoing instrument was acknowledged before me this 29 day of August 2015 by Jane Courtney Alukonis
 Barbara Kelly / Barbara Kelly

note -
Service date

3

Lauren Alukonis Testimony

My nephew, [redacted], was born [redacted]. Other than the doctors, I was the first person to lay eyes on him, as I held his mother's (Katelyn Alukonis) hand through the Cesarean delivery, while our sister Jane patiently waited in the other room. I took the picture of her meeting her son for the first time and saying "hi baby" as she touched his hand before the doctors took him away. [redacted] was born premature and had to spend the first weeks of life in the Newborn Intensive Care Unit. Although my father (Steve Alukonis) had his own career, he dropped everything to be with his daughter and grandson during this difficult time. My father spent his days and nights between the hospital with [redacted] and tending to Katelyn's house to prepare for [redacted] homecoming.

Since the day [redacted] was born, five years ago, my father has been there for him and has gone far beyond what any grandparent is expected but exactly what a parent, a father, would do. [redacted] My father even remodeled a room in his house into a nursery for [redacted] knowing Katelyn would be raising him under his roof. He ensured the room, his house, and the surroundings were suitable and safe for his grandchild.

My father and I celebrated [redacted]'s first birthday (and many thereafter) in my father's house. Like any parent would do, he paid for the food, beverages, decorations, and the cake. Throughout the years, especially as Katelyn became ill, my father was [redacted] sole caretaker. While Katelyn was hospitalized my father was [redacted] guardian. My dad did not just meet the essentials a child needs to survive and thrive, he went above and beyond for [redacted]. Not only did he feed him, change him, bathe him, take him to and from school almost every day, he also raised him, comforted him, and educated him. He took [redacted] to the park and to the beach, taught him how to kick a soccer ball, throw and catch a ball, even how to fish, which became his

favorite activity. [REDACTED] learned how to ride a bike in my father's driveway. My dad would rub [REDACTED] head and read him books so he could fall asleep at night.

One day Katelyn, [REDACTED] my father, and I went to the beach. [REDACTED] loved digging his hands and feet in the sand and building castles with my father. I was walking behind my dad and [REDACTED] I watched how [REDACTED] would mimic my father and follow him everywhere he went. At the time, [REDACTED] was a bit frightened by the ocean waves and on this day, I remember, he asked my dad to walk with him to the shoreline and have the water touch their toes together. [REDACTED] felt safe and knew nothing bad would happen as long as his grandpa was there by his side. Having his grandpa there holding his hand gave him the courage and strength to face his fears and get his feet wet. Along with being [REDACTED]'s positive psychological role model, my father has also supported him financially, even before he was born. He has paid for [REDACTED]'s diapers, food, clothes, toys, school, daycare, doctor's appointments, and medications. Above all, my father paid for the roof over his head giving [REDACTED] a loving and nurturing home.

The evening of August 16, 2015, Katelyn called my father. He put it on speaker phone so my husband and I could say hello to her and [REDACTED]. [REDACTED] was telling my father how he had gotten a glue stick for school starting tomorrow and how he asked his mom to call his grandpa, my father, so he could share his exciting news about his new glue stick. My dad shared [REDACTED]'s enthusiasm and happily replied how great it was to have a glue stick for the new school year. That was the last time my father and [REDACTED] heard each other's voice.

The bond between "father" and "son" severed and neither imagined the ripping apart [REDACTED] from each other in such a traumatic and unjust way. The loss of the emotional security caused from being isolated from his loving father/grandfather, familiar persons of variety of his own age and temperament, and bonding that was once firmly established, cannot and must not continue.

The time has come to reunite the true parent and child together so that [REDACTED] can return to a loving, caring, familiar, and warming environment with the one who has been everything to him.

For any further questions or concerns please feel free to contact me at any time. My personal phone number is [REDACTED] or via E-mail at [REDACTED].

Lauren Alukonis
Lauren ALUKONIS

Oct 13, 2015

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Solano

On 10/13/2015 before me, Gary G. Glenn, Notary Public,
(Here insert name and title of the officer)

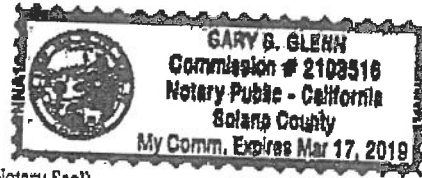
personally appeared Lauren Alukonis

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public



(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Lauren Alukonis Testimony

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 3 Document Date 10/13/2015

(Additional information)

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer

(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other



White Hall Independent Methodist Church

130 Brown Arrow Circle
Inman, S.C. 29349

Cell (864) 978-9000
Phone No. (864) 559-2332

FILED
CLERK OF COURT
SPARMBURG COUNTY
2005 NOV -9 AM 8:48
MARGARET A. SMILEY

"Thy Word is a lamp unto my feet and a light unto my path." Psalm 119: 105

To: Whom It May Concern

Reference: [Redacted]

I have known Wayne Smith Jr. for many years. He is from a wonderful family in our community whom I have known all my life. It has been and continues to be a pleasure for this family to be members of my church (White Hall Independent Methodist).

I have known [Redacted] since his birth. In the past his mother, Kate, was coming to my church and was planning on giving words of encouragement to the young members.

[Redacted] is a smart and friendly little boy who is a member of our children's Bible School class. He is well taken care of and a happy little youngster. He always greet me with a smile and gives me a high 5.

[Redacted] father, Wayne Smith Jr, is a hard working person who has been employed at Reeves/Trelleborg for at least 10 years as far as I know. Wayne is very responsible and from what I can see and hear is that he is doing a wonderful job taking care of [Redacted]

Also, I can't say enough about how much [Redacted] grandparents (Deidra and Wayne Smith Sr.) care for [Redacted] is, also, surrounded and cared for by many other close relatives.

As Pastor of the White Hall Independent Methodist Church I am confident that Wayne Jr. and his family has [Redacted] best interest at hand and will do everything in their power to meet his needs and continue to provide a bright future for him.

If I can answer any questions or concerns feel free to call me at [Redacted]

Sincerely,

Johnny Jackson
Pastor Johnny Jackson

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE FAMILY COURT OF THE
SEVENTH JUDICIAL CIRCUIT

Steven K. Alukonis,)
)
Plaintiff)

AFFIDAVIT OF KATHY JACKSON

v.)
)
Wayne K. Smith, Jr.,)
)
Defendant)

Ca. No. 2015-DR-42-2977

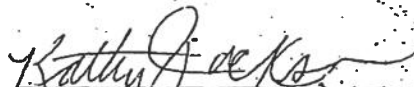
FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 NOV -9 AM 8:48
M. HOREDLACKLEY

PERSONALLY, appeared before me, the undersigned, who being duly sworn, deposes and says:


I am associate minister at White Hall Independent Methodist Church in Inman, SC. I have had the opportunity to see [redacted] grow up and attend church with his father and paternal grandfather since birth.

As of now, [redacted] is active in our children's church as well as sings on the children's choir. His family takes much pride in seeing him grow spiritually. His mother attended our church as well as Wednesday night bible study. She asked for any opportunity to speak at our Wednesday night bible study.

It would be totally devastating to this child to be removed from this environment.


KATHY JACKSON

Sworn to before me this 2
day of Nov., 2015.


Notary Public for SC
My Commission Expires: 7/13/20

Monday, November 02, 2015

To Whom It May Concern:

I, Sharon Thomas, am a witness to the fact that Wayne Smith Jr. has been in the life of his son, [REDACTED]. I have had the pleasure of spending time with [REDACTED] on several occasions when he with his father. Wayne Jr. has brought [REDACTED] to my mother's house and to other family gatherings. I even had the pleasure of being at church on a couple of occasions when [REDACTED] and his mother, Kaitlyn, attended Bible School on Wednesday and on Sunday for morning service with Wayne Jr.'s family. To this day, I continue to see [REDACTED] with his father and family in a regular basis. [REDACTED] also attends Bible School and church with his family.

Sharon Thomas

Sharon Thomas

Subscribed and sworn to before me, this 2nd [day of month] day of November [month], 20 15.

[Notary Seal:]

Karin D. Smith

[Signature of Notary]

KARIN D. SMITH

Notary Public

South Carolina

My Commission Expires January 22, 2016

[Typed name of Notary]

NOTARY PUBLIC

My commission expires: January 22, 20 16.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Steven K. Alukonis,)
)
Plaintiff)
)
v.)
)
Wayne K. Smith, Jr.,)
)
Defendant)

IN THE FAMILY COURT OF THE
SEVENTH JUDICIAL CIRCUIT

AFFIDAVIT OF DEIDRA SMITH

Ca. No.: 2015-DR-42-2977

PERSONALLY, appeared before me, the undersigned, who being duly sworn, deposes and says:

Being ██████████ grandmother, Wayne's mother, I'm here to witness that Wayne has always been involved in his son's life and provides for him. Wayne provides ██████████ with whatever he needs and wants. I have witnessed the enormous amount of quality time that Wayne spends with his son. The amount of love shared between Wayne and ██████████ is like no other. The bond built between Wayne and ██████████ is a bond that has taken years to build and it is not in the best interest of ██████████ for this bond to be broken. To strip ██████████ from his father would be devastating.


Deidra Smith

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Steven K. Alukonis,)
)
Plaintiff)
)
v.)
)
Wayne K. Smith, Jr.,)
)
Defendant)

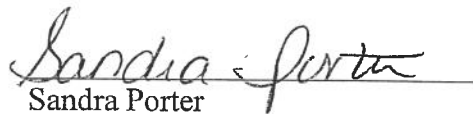
IN THE FAMILY COURT OF THE
SEVENTH JUDICIAL CIRCUIT

AFFIDAVIT OF SANDRA PORTER

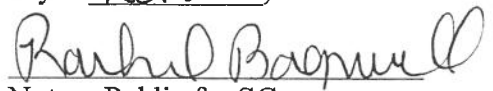
Ca. No.: 2015-DR-42-2977

PERSONALLY, appeared before me, the undersigned, who being duly sworn, deposes and says:

I have known the Smith family all of my life through school and social life. Wayne Jr. has always been a respectful and hardworking young man. He appears to love his kids and family. I have seen him interact with his son [REDACTED] in the home and in public. The Smith family is a loving that treat all kids with love and fairness. I have personally never seen or spoken with Katelyn's father. [REDACTED] has not made any mention of him or talked about any experience in Florida in my presence.


Sandra Porter

Sworn to before me this 2
day of Nov., 2015.


Notary Public for SC
My Commission Expires: 7/13/20

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Steven K. Alukonis,)
)
Plaintiff)
)
v.)
)
Wayne K. Smith, Jr.,)
)
Defendant)

IN THE FAMILY COURT OF THE
SEVENTH JUDICIAL CIRCUIT

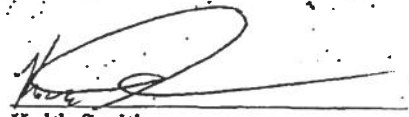
AFFIDAVIT OF KEITH SMITH

Ca. No.: 2015-DR-42-2977

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 NOV -9 AM 8:48
M. HOPE BLACKLEY

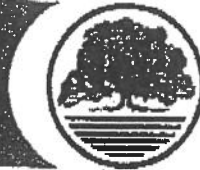
PERSONALLY, appeared before me, the undersigned, who being duly sworn, deposes and says:

I, Keith Smith, am the brother of Wayne K. Smith, Jr. [redacted] has been with our family since birth. Wayne has taken care of [redacted] since he was born. [redacted] attends church at White Hall Independent Church. [redacted] mother, Katelyn, also attended church with our family. The reason this is a good family for [redacted] is that we take the boys fishing, teach them to play basketball and football and do homework and yardwork. Our family is very close, [redacted] cousins call him their brother. Wayne is a wonderful father to [redacted]. [redacted] looks up to Wayne and wants to do everything just like him. Wayne should be able to raise his son because [redacted] needs him in his life to become a man. Wayne loves his son with all of his heart and his son is everything to him. Wayne would do anything to put a smile on [redacted] face.


Keith Smith

349 EAST MAIN ST., STE. 200
SPARTANBURG, SC 29302
P: (864) 598-9172
F: (864) 398-9264

WWW.SCFAMILYLAW.COM
MAILING ADDRESS:
POST OFFICE BOX 6158
SPARTANBURG, SC 29304



THE
STEVENS FIRM, PA.
FAMILY LAW CENTER

December 13, 2016

VIA SERVICE BY BREVARD COUNTY SHERIFF
Rosalind Mandler, LMHC
42 Nevins Court
Merritt Island, FL 32953

Re: Steve K. Alukonis v. Wayne K. Smith, Jr.
Case No.: 2015-DR-42-2977

Dear Sir or Madam:

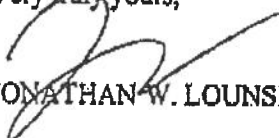
Please be advised that I represent the Defendant, Wayne K. Smith, Jr., in the above-referenced matter pending in Family Court in Spartanburg County, South Carolina. I have enclosed a Subpoena requesting certain information regarding the parties' files and documents.

Please note that this Subpoena requests that you make these documents available in my office on or before December 28, 2016, at 10:00 a.m. If it is more convenient for you, the documents may be produced in electronic format instead of paper. I have also enclosed a Records Custodian Affidavit, which I respectfully request that you return with the requested records. The enclosed Affidavit verifies that you have provided all responsive records and that they are copies of the documents maintained in your files during the normal course of business. Please notify us in advance if the cost associated with your complying with this Subpoena exceeds fifty dollars (\$50.00).

Thank you in advance for your prompt attention to and cooperation with this matter. Please note that a copy of this Subpoena is being served on Dr. Alukonis' attorneys and on the Guardian *ad Litem*. If you have any questions or would like to discuss this matter further, please do not hesitate to contact me. I thank you in advance for your assistance and cooperation.

With kindest regards, I remain

Very truly yours,


JONATHAN W. LOUNSBERRY

JWL/jp

Enclosure

cc: John B. White, Jr., Esquire & Allison P. Dunham, Esquire (via U.S. Mail w/encl.)
Angela J. Moss, Esquire (via U.S. Mail w/encl.)
Wayne K. Smith, Jr. (via email w/ encl.)

PROOF OF SERVICE		
SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$
	PLACE 3661 S. Babcock Street, Melbourne, FL 32901	
SERVED ON Bright Star Counseling		MANNER OF SERVICE
SERVED BY		TITLE
DECLARATION OF SERVER		

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on _____

SIGNATURE OF SERVER _____

ADDRESS OF SERVER _____

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

ADDENDUM A

Your full and complete file regarding the above-listed parties and the minor child, [REDACTED], including but not limited to any and all notes, records, reports, evaluations, correspondence, faxes, emails, text messages, written or recorded telephone messages, other forms of communication, photographs, audio recordings, video recordings, or other tangible item or thing (whether stored electronically or in hard copy), regarding, concerning, to, from, or about the above-listed parties, the minor child, [REDACTED], their attorneys, teachers, counselors, healthcare providers, potential witnesses, or any other person or entity with whom you have communicated regarding the above-captioned action.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2015-DR-42-2977

Steven K. Alukonis,

Plaintiff,

vs.

Wayne Keith Smith,

Defendant.

**AFFIDAVIT OF
CUSTODIAN OF RECORDS**

PERSONALLY appeared before me, _____

(name of records custodian), who first being sworn, testifies:

1. I am employed with _____ (name of employer) in the
position of _____ (job title).

2. I am the duly authorized and designated custodian of records for
_____ (name of employer) and am duly authorized to certify such records.

3. I certify that the attached documents, which were provided to
_____, pursuant to a Subpoena, consisting of _____
pages, are true and correct copies of the original documents from _____
(name of employer) and that said records were prepared in the ordinary course of
business.

Signature: _____

Printed Name: _____

Sworn to before me the _____
day of _____, 2016

Notary Public for South Carolina
Commission Expires: _____

2

349 EAST MAIN ST., STE. 200
SPARTANBURG, SC 29302

P: (864) 598-9172
F: (864) 598-9264

WWW.SC.FAMILYLAW.COM

MAILING ADDRESS:
POST OFFICE BOX 6158
SPARTANBURG, SC 29304



THE
STEVENS FIRM, PA.
FAMILY LAW CENTER

December 13, 2016

VIA SERVICE BY BREVARD COUNTY SHERIFF

BrightStar Counseling
3661 S. Babcock Street
Melbourne, FL 32901

Re: Steve K. Alukonis v. Wayne K. Smith, Jr.
Case No.: 2015-DR-42-2977

Dear Sir or Madam:

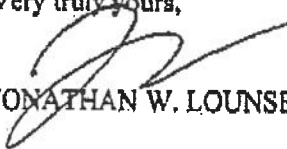
Please be advised that I represent the Defendant, Wayne K. Smith, Jr., in the above-referenced matter pending in Family Court in Spartanburg County, South Carolina. I have enclosed a Subpoena requesting certain information regarding the parties' files and documents.

Please note that this Subpoena requests that you make these documents available in my office on or before December 28, 2016, at 10:00 a.m. If it is more convenient for you, the documents may be produced in electronic format instead of paper. I have also enclosed a Records Custodian Affidavit, which I respectfully request that you return with the requested records. The enclosed Affidavit verifies that you have provided all responsive records and that they are copies of the documents maintained in your files during the normal course of business. Please notify us in advance if the cost associated with your complying with this Subpoena exceeds fifty dollars (\$50.00).

Thank you in advance for your prompt attention to and cooperation with this matter. Please note that a copy of this Subpoena is being served on Dr. Alukonis' attorneys and on the Guardian *ad Litem*. If you have any questions or would like to discuss this matter further, please do not hesitate to contact me. I thank you in advance for your assistance and cooperation.

With kindest regards, I remain

Very truly yours,


JONATHAN W. LOUNSBERRY

JWL/jp

Enclosure

cc: John B. White, Jr., Esquire & Allison P. Dunham, Esquire (via U.S. Mail w/encl.)
Angela J. Moss, Esquire (via U.S. Mail w/encl.)
Wayne K. Smith, Jr. (via email w/ encl.)

STATE OF SOUTH CAROLINA
ISSUED BY THE FAMILY COURT IN THE COUNTY OF SPARTANBURG

Steven K. Alukonis,

Plaintiff,

SUBPOENA IN A CIVIL CASE

v.

Wayne Keith Smith,

Defendant.

CASE NUMBER: 2016-DR-42-2977

PENDING IN SPARTANBURG COUNTY

TO: Terry Musso, Bright Star Counseling
3661 S. Babcock Street
Melbourne, FL 32901

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below.

SEE ADDENDUM A


PLACE	DATE AND TIME
The Stevens Firm, P.A. 349 E. Main Street, Suite 200 Spartanburg, SC 29302	December 28, 2016 10:00 AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Jonathan W. Lounsberry, The Stevens Firm, P.A. 349 East Main Street, Suite 200, Spartanburg, SC 29302	Phone: (864) 598-9172 Fax: (864) 598-9264
--	--

 _____ Attorney for Defendant
ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE ATTORNEY FOR PLAINTIFF OR DEFENDANT) 12/13/2016
DATE

STATE OF SOUTH CAROLINA
ISSUED BY THE FAMILY COURT IN THE COUNTY OF SPARTANBURG

Steven K. Alukonis,

Plaintiff,

SUBPOENA IN A CIVIL CASE

v.

Wayne Keith Smith,

Defendant,

CASE NUMBER: 2016-DR-42-2977

PENDING IN SPARTANBURG COUNTY

TO: Rosalind Mandler, LMHC
42 Nevins Court
Merritt Island, FL 32953

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below.

SEE ADDENDUM A

PLACE	DATE AND TIME
The Stevens Firm, P.A. 349 E. Main Street, Suite 200 Spartanburg, SC 29302	December 28, 2016 10:00 AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Jonathan W. Lounsberry, The Stevens Firm, P.A. 349 East Main Street, Suite 200, Spartanburg, SC 29302	Phone: (864) 598-9172 Fax: (864) 598-9264
--	--

	Attorney for Defendant	12/13/2016
ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE ATTORNEY FOR PLAINTIFF OR DEFENDANT)		DATE

PROOF OF SERVICE		
SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$
	PLACE 42 Nevins Court, Merritt Island, FL 32953	
SERVED ON Rosalind Mandler, LMHC		MANNER OF SERVICE TITLE
SERVED BY		
DECLARATION OF SERVER		

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

ADDENDUM A

Your full and complete file regarding Katelyn Alukonis, including but not limited to any and all notes, records, reports, evaluations, correspondence, faxes, emails, text messages, written or recorded telephone messages, other forms of communication, photographs, audio recordings, video recordings, or other tangible item or thing (whether stored electronically or in hard copy), regarding, concerning, to, from, or about Katelyn Alukonis, her attorneys, teachers, counselors, healthcare providers, potential witnesses, or any other person or entity with whom you have communicated regarding the above-captioned action.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2015-DR-42-2977

Steven K. Alukonis,

Plaintiff,

vs.

Wayne Keith Smith,

Defendant.

**AFFIDAVIT OF
CUSTODIAN OF RECORDS**

PERSONALLY appeared before me, _____

(name of records custodian), who first being sworn, testifies:

1. I am employed with _____ (name of employer) in the position of _____ (job title).
2. I am the duly authorized and designated custodian of records for _____ (name of employer) and am duly authorized to certify such records.
3. I certify that the attached documents, which were provided to _____, pursuant to a Subpoena, consisting of _____ pages, are true and correct copies of the original documents from _____ (name of employer) and that said records were prepared in the ordinary course of business.

Signature: _____

Printed Name: _____

Sworn to before me the _____
day of _____, 2016

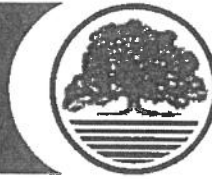
Notary Public for South Carolina
Commission Expires: _____

349 EAST MAIN ST., STE. 200
SPARTANBURG, SC 29302

P: (864) 598-9172
F: (864) 598-9264

WWW.SCFAMILYLAW.COM

MAILING ADDRESS:
POST OFFICE BOX 6158
SPARTANBURG, SC 29304



THE
STEVENS FIRM, P.A.
FAMILY LAW CENTER

December 13, 2016

VIA CERTIFIED MAIL

Brevard County Clerk of Court
P.O. Box 219
Titusville, FL 32781

Re: Steven K. Alukonis v. Wayne Keith Smith
Case No.: 2015-DR-42-2977
Pending in the Family Court of Spartanburg County, South Carolina

Dear Sir or Madam:

Please be advised that I represent the Defendant, Wayne Smith, in the above-referenced matter pending in Family Court in Spartanburg County, South Carolina. I have enclosed five (5) Subpoenas requesting certain information regarding files and documents relating to this action. Pursuant to the Uniform Foreign Depositions Law, § 92.251 Fla. Stat. (1998), Fla. R. Civ. P. 1.351, and the instructions located on your web site, I have enclosed the following:

- An original and one copy of each proposed Subpoena to be issued by the Clerk;
- An original Certificate of Non-Objection;
- A check for \$10.00 (\$2.00 per Subpoena), which represents the fee for signing and sealing said Subpoenas;
- A check made payable to the Brevard County Sheriff for \$200.00 for the fees associated with service of the above-referenced Subpoenas (\$40.00 per Subpoena).

Thank you in advance for your prompt attention to and cooperation with this matter. By copy of this correspondence, these Subpoenas are being served on Mr. Alukonis' attorneys, John B. White, Jr., and Allison P. Dunham, as well as the Guardian ad Litem, Angela Moss. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact my office.

With kindest regards, I remain

Very truly yours,


JONATHAN W. LOUNSBERRY

JWL/jp

Enclosure

cc: John B. White Jr., Esquire (w/encl.)
Allison P. Dunham, Esquire (w/encl.)
Angela J. Moss, Esquire (w/encl.)
✓ Wayne Keith Smith (w/encl.)

IN THE CIRCUIT COURT OF THE 18TH
JUDICIAL CIRCUIT, IN AND FOR
BREVARD COUNTY, FLORIDA

CASE NO.: 2015-DR-42-2977
Pending in The Family Court of
Spartanburg County, SC

Steven K. Alukonis,

Plaintiff,

vs.

Wayne Keith Smith,

Defendant.

**CERTIFICATE OF
NON-OBJECTION**

Plaintiff, Steven K. Alukonis, and Defendant, Wayne Keith Smith, by and through their undersigned counsel of record, hereby certify that there are no objections to the Notice of Production from Nonparty served on December 6, 2016 regarding Subpoenas Duces Tecum Without Deposition directed to:

~~First United Methodist Church Preschool, Cocoa Beach~~
~~300 N. Atlantic Avenue~~
Cocoa Beach, FL 32931

~~Theodore Roosevelt Elementary School~~
~~400 Minnemena Causeway~~
Cocoa Beach, FL 32931

BrightStar Counseling
3661 S. Babcock Street
Melbourne, FL 32901

Rosalind Mandler, LMHC
42 Nevins Court
Merritt Island, FL 32953

Space Coast United Soccer Club
By and Through Its Registered Agent
Marisa A. Whisel
Box 410301
Melbourne, FL 32941

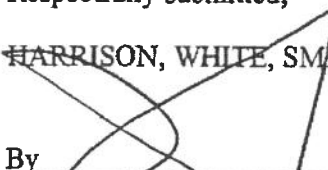
Alukonis v. Smith
Case No.: 2015-DR-42-2977
Family Court of Spartanburg County, SC

Certificate of Non-Objection

Page 1 of 2


Respectfully submitted,

~~HARRISON, WHITE, SMITH & COGGINS, P.C.~~

By 

JOHN B. WHITE, JR.
ALLISON P. DUNHAM
Attorneys for the Plaintiff
178 West Main Street
P.O. Box 3547
Spartanburg, SC 29304
Phone: (864) 585-5100
Fax: (864) 543-2990

THE STEVENS FIRM, P.A.

By 

JONATHAN W. LOUNSBERRY
Attorney for the Defendant
349 East Main Street, Suite 200
Spartanburg, South Carolina 29302
Phone: (864) 598-9172
Fax: (864) 598-9264

December 13, 2016
Spartanburg, South Carolina

349 EAST MAIN ST., STE. 200
SPARTANBURG, SC 29302
P: (864) 598-9172
F: (864) 598-9264

WWW.SCFAMILYLAW.COM
MAILING ADDRESS:
POST OFFICE BOX 6158
SPARTANBURG, SC 29304



THE
STEVENS FIRM, P.A.
FAMILY LAW CENTER

December 13, 2016

VIA SERVICE BY BREVARD COUNTY SHERIFF

First United Methodist Church Preschool, Cocoa Beach
1300 N. Atlantic Avenue
Cocoa Beach, FL 32931

Re: Steve K. Alukonis v. Wayne K. Smith, Jr.
Case No.: 2015-DR-42-2977

Dear Sir or Madam:

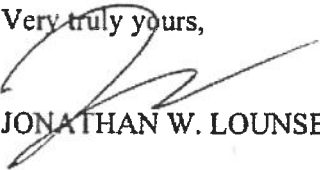
Please be advised that I represent the Defendant, Wayne K. Smith, Jr., in the above-referenced matter pending in Family Court in Spartanburg County, South Carolina. I have enclosed a Subpoena requesting certain information regarding the parties' files and documents.

Please note that this Subpoena requests that you make these documents available in my office on or before December 28, 2016, at 10:00 a.m. If it is more convenient for you, the documents may be produced in electronic format instead of paper. I have also enclosed a Records Custodian Affidavit, which I respectfully request that you return with the requested records. The enclosed Affidavit verifies that you have provided all responsive records and that they are copies of the documents maintained in your files during the normal course of business. Please notify us in advance if the cost associated with your complying with this Subpoena exceeds fifty dollars (\$50.00).

Thank you in advance for your prompt attention to and cooperation with this matter. Please note that a copy of this Subpoena is being served on Dr. Alukonis' attorneys and on the Guardian *ad Litem*. If you have any questions or would like to discuss this matter further, please do not hesitate to contact me. I thank you in advance for your assistance and cooperation.

With kindest regards, I remain

Very truly yours,


JONATHAN W. LOUNSBERRY

JWL/jp

Enclosure

cc: John B. White, Jr., Esquire & Allison P. Dunham, Esquire (via U.S. Mail w/encl.)
Angela J. Moss, Esquire (via U.S. Mail w/encl.)
Wayne K. Smith, Jr. (via email w/ encl.)

STATE OF SOUTH CAROLINA
ISSUED BY THE FAMILY COURT IN THE COUNTY OF SPARTANBURG

Steven K. Alukonis,

Plaintiff,

SUBPOENA IN A CIVIL CASE

v.

Wayne Keith Smith,

CASE NUMBER: 2016-DR-42-2977

Defendant.

PENDING IN SPARTANBURG COUNTY

TO: ~~First United Methodist Church, Pre-School~~
~~100 N. Atlantic Avenue~~
Cocoa Beach, FL 32931

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below.

SEE ADDENDUM A


PLACE	DATE AND TIME
The Stevens Firm, P.A. 349 E. Main Street, Suite 200 Spartanburg, SC 29302	December 28, 2016 10:00 AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Jonathan W. Lounsberry, The Stevens Firm, P.A. 349 East Main Street, Suite 200, Spartanburg, SC 29302	Phone: (864) 598-9172 Fax: (864) 598-9264
--	--



ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorney for Defendant 12/12/2016
DATE

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$
	PLACE 3300 N. Atlantic Ave., Cocoa Beach, FL 32931	
SERVED ON	MANNER OF SERVICE	
SERVED BY	TITLE	
DECLARATION OF SERVER		

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER _____

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

ADDENDUM A

Any and all records, correspondence, reports, memoranda, notes, or other written documents of any nature whatsoever related or pertaining to [REDACTED] including, but not limited to guidance records, nurse's notes, attendance records, sign out sheets, transcripts, notes from meetings and/or conferences, progress reports, and report cards.

Student: [REDACTED]

Date of Birth: [REDACTED]

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2015-DR-42-2977

Steven K. Alukonis,

Plaintiff,

vs.

Wayne Keith Smith,

Defendant.

**AFFIDAVIT OF
CUSTODIAN OF RECORDS**

PERSONALLY appeared before me, _____

(name of records custodian), who first being sworn, testifies:

1. I am employed with _____ (name of employer) in the position of _____ (job title).
2. I am the duly authorized and designated custodian of records for _____ (name of employer) and am duly authorized to certify such records.
3. I certify that the attached documents, which were provided to _____, pursuant to a Subpoena, consisting of _____ pages, are true and correct copies of the original documents from _____ (name of employer) and that said records were prepared in the ordinary course of business.

Signature: _____

Printed Name: _____

Sworn to before me the _____
day of _____, 2016

Notary Public for South Carolina
Commission Expires: _____

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Steven K. Alukonis)

Plaintiff,)

vs.)

Wayne K. Smith, Jr.)

Defendant.)

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

JUDGMENT IN A
FAMILY COURT CASE

Docket No. 2015-DR-42-2977

Submitted by:

Allison P. Dunham

P.O. Box 3547, Spartanburg, SC 29304

Attorney for Plaintiff Defendant
or
 Self-Represented Litigant GAL

DECISION BY COURT (check all that apply)

- This action came to trial, hearing or was resolved by consent and an order was rendered.
- This action has been dismissed pursuant to Rule 12(b), SCRPC Rule 41(a), SCRPC
 Rule 43(k), SCRPC Family Court Benchmark
 Other: **Order of Expedited Hearing**

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court

Additional information for Clerk:

ORDER INFORMATION

This is a Temporary Final order. If Final, does this order end the case? Yes No
Support is not ordered is ordered, and it is to be paid through the court. directly to the CP.

Case number under which support is paid if different from this one:

This order involves the immediate issuance dismissal of a bench warrant, or does not apply.

The following motions are ended by this order (include motion filing date):

This order adds or dismisses the following parties to this case:

dismiss add:

dismiss add:

INFORMATION FOR THE PUBLIC INDEX/TRANSCRIPT OF JUDGMENT (§ 20-3-670(B)(1))		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information to enroll, indicate "N/A" in one of the boxes below.		
Judgment In Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount to be Enrolled (List amount(s) below)
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the South Carolina Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: title abstractors and researchers should refer to the official court order for judgment details.

Family Court Judge

Judge Code

Date

Appointment of the GAL if the matter is contested with the Defendant to be required to pay for same; for Plaintiff/Maternal Grandfather to be granted liberal discovery, for Defendant/Father to be required to sign any and all HIPPA releases and medical authorizations necessary to obtain any and all medical records relating to the minor child, for the Defendant/Father to be required to sign any and all HIPPA releases and medical authorizations necessary to obtain his medical and psychiatric records, for attorney fees and costs for having to bring this action, and for any other relief deemed just and proper for such other and further relief as the Court may deem just and proper.

The Defendant was personally served on October 25, 2015 with the Notice, Motion, Summons, Complaint and Order for hearing. Counsel for the Defendant filed a Rule 8 Notice of Representation on November 2, 2015.

At the call of the case the Plaintiff were present represented by his attorney, Allison P. Dunham and the Defendant was present represented by his attorney, J. Patrick Anderson. Upon review of the pleadings, required forms, affidavits, exhibits, financial declarations, the Court questioned the parties extensively through counsel. The Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Plaintiff is a citizen and resident of the County of Brevard State of Florida. The Defendant is a citizen and resident of the County of Spartanburg, South Carolina, and has been so for more than three (3) months prior to the commencement of this action.
2. The Court has personal jurisdiction over of the parties and has subject matter jurisdiction over the issues. Venue is proper in Spartanburg County. This matter is properly before this Court. There are no other actions pending in any jurisdiction as to this child.

3. These parties were never married, but as the result of a consensual relationship, the deceased Mother gave birth to a child, [REDACTED] date of birth, [REDACTED]. The Father had access to the Mother during the time of conception. The Defendant/Father, Wayne K. Smith, Jr., agrees that he is the biological Father of said minor child and there is a DNA test indicating paternity.

4. The findings herein is on a prima facie basis only and are not to be construed at any future hearings as the law of the case.

5. Child was born in Spartanburg County, South Carolina. Child remained in Spartanburg County for at least several weeks, maybe slightly longer, and then moved to Florida with Plaintiff (Grandfather).

6. Grandfather appears to have lived with the child a good portion of the child's life. Grandfather's affidavit claims forty-two out of sixty-two months of the child's life that the child lived with Grandfather. It also appears Mother lived with Grandfather most of this time. Mother had recently removed herself to Spartanburg, S.C. about early August, 2015.

7. After Mother removed herself to Spartanburg in August, 2015, she committed suicide on August 18, 2015. At this time, Defendant (Father) took possession of the child. Within 10 days, he filed an action with the Clerk of Court for Spartanburg County to change the child's name and sought a finding of paternity.

8. Since Mother's death, Father has not allowed contact with Grandfather. The reason Father gave for this was animosity between the parties.

9. Grandfather hired a private investigator to investigate where the child was living. According to the private investigator, the child lives with a relative of Father and not with Father. Father admits the child only stays overnight at his house about 2 nights a week. When asked why

by the Court, Father responded something to the effect that the child was bonded to a child who lives with the relative. It appears to this Court that Child and Father do not have a close bond. Father's other child resides with him and his girlfriend.

10. Father admits that during the forty-two months that child lived with Grandfather, Father paid no child support, although Father says he did provide some diapers shoes, and clothing.

11. Prior to Mother's death, it appears that Father had infrequent contact with the child.

12. After the death of Mother, Father would not allow the child to have telephone contact with Grandfather nor did he allow the child to attend the deceased mother's memorial service.

13. Looking at the totality of the circumstances in this case, it appears to this Court that all of the above evidence makes a prima facie showing of Father's unfitness to handle custody at this time.

14. Grandfather shall have sole temporary custody of the child with Father having visitation once per month (the first full weekend of each month) beginning the first weekend in December from Friday at 6:00 p.m. until Sunday at 6:00 p.m. Father shall be allowed visitation between December 26, 2015 at 9:00 a.m. to January 1st 2016 at 6:00 p.m. and at other times the parties may agree. Based on the Defendant's work schedule, the pick-up and delivery can be accomplished by a third party agreed to as suitable between the Plaintiff and Defendant. If an agreement is not possible, this will be a decision determined by the Guardian ad Litem. Plaintiff and Defendant will agree to meet for exchange (pick-up and drop-off) in location half-way between Spartanburg, South Carolina and Cocoa Beach, Florida to exchange the child. If the parties cannot agree then the attorneys for the parties will choose a location half-way for the exchange.

15. I am appointing Angela Moss as guardian ad litem. She is to make an immediate investigation in this case and move for modification of this order if she deems any part of it to be not in the best interests of the child.

16. Grandfather shall have the authority to consent to routine or emergency medical and dental services and treatment as may be required and to manage and provide for the minor child's educational needs.

17. Father shall continue to maintain his health insurance on the minor child and provide an insurance card to Grandfather.

18. Grandfather shall allow reasonable telephone and other contact between Father and Child.

19. The parties are allowed discovery pursuant to South Carolina Rules of Civil Procedure.


20. The Guardian ad Litem, Angela Moss, was appointed by separate Order of the Court.

21. The Defendant is to return the child to the Plaintiff by 6:00 p.m. today, November 6, 2015.


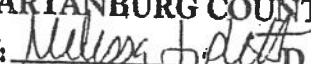
22. All other issues are reserved.

AND IT IS SO ORDERED.

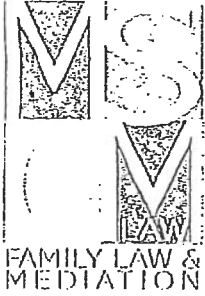
GIVEN under my hand and the Seal of this Court this the 6 day of November, 2015.


JAMES F. FRALEY, JR.
FAMILY COURT JUDGE

Spartanburg, South Carolina.

A CERTIFIED COPY

CLERK OF COURT
SPARTANBURG COUNTY
BY:  D.C.
DATED NOV 06 2015





McDougall Self Currence McLeod LLP

John O. McDougall*
Michael W. Self*
Peter G. Currence
Ryan A. McLeod**
Alyssa H. Richardson

791 Greenlawn Dr. #4, Columbia, SC 29209-2643
P.O. Box 90860, Columbia, SC 29290-1860
803.776.3230 phone; 803.776.7748 fax
21 East Calhoun St., Sumter, SC 29150-4315
P.O. Box 2197, Sumter, SC 29151-2197
803.778.5062 phone; 803.778.6908 fax

February 10, 2016

VIA US MAIL

Allison P. Dunham
Harrison White Smith & Coggins, PC
Post Office Box 3547
Spartanburg SC 29304-3547

Re: Steven K. Alukonis v Wayne K. Smith
Docket # 2015-DR-42-2977

Dear Ms. Dunham:

Enclosed please find a filed copy of Plaintiff's NOTICE OF MOTION AND MOTION TO MAKE MORE DEFINITE AND CERTAIN and MOTION AND ORDER INFORMATION FORM AND COVERSHEET, which I hereby serve upon you by mail. Also enclosed, please find an Affidavit of Service regarding the same.

With kind regards.

Sincerely,

PETER G. CURRENCE

AHR:sb
Enclosures

cc: Wayne K. Smith (via email only)
Angela J. Moss (via email only)

Reply to Columbia | alyssa@mscmlaw.com | www.mscmlaw.com

*Diplomate, American College of Family Trial Lawyers *Fellow, International Academy of Matrimonial Lawyers
*Fellow, American Academy of Matrimonial Lawyers *Certified Family Court Mediator

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
Steven K. Alukonis,)
Plaintiff,)
vs.)
Wayne Keith Smith,)
Defendant.)

IN THE FAMILY COURT FOR THE SEVENTH JUDICIAL CIRCUIT

AFFIDAVIT OF SERVICE

Docket No. 2015-DR-42-2977

I, the undersigned, a Legal Assistant / Paralegal of McDougall, Self, Currence & McLeod, LLP, attorneys for the Plaintiff above named, do hereby certify that I have on February 5, 2016 served the NOTICE OF MOTION AND MOTION TO MAKE MORE DEFINITE AND CERTAIN and MOTION AND ORDER INFORMATION FORM AND COVERSHEET dated January 26, 2016, by emailing and by personally depositing in a United States Postal Service mail box a copy of the same, postage prepaid, addressed to the Defendant's attorney(s) and the Guardian *ad Litem* as indicated below:

Allison P. Dunham
Harrison White Smith & Coggins, PC
Post Office Box 3547
Spartanburg SC 29304-3547

Angela J. Moss
366 N. Church St., Ste. 3000
Spartanburg SC 29303
afjmoss@yahoo.com

Columbia, South Carolina
February 5, 2016

Stefani Bradley
STEFANI BRADLEY (J)
Legal Assistant / Paralegal

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

Steven K. Alukonis,)
)
) Plaintiff,)
)
) vs.)
)
Wayne Keith Smith,)
)
) Defendant.)

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Docket No. 2015-DR-42-2977

Plaintiff's Attorney:
Allison Peters Dunham
Harrison White Smith & Coggins, PC
Post Office Box 3547
Spartanburg, SC 29304-3547

Defendant's Attorney:
Alyssa H. Richardson, Bar No. 79043
Address:
Post Office Box 90860, Columbia, SC 29290-1860
Phone: (803) 776-3130 Fax (803) 776-7748
E-mail: alyssa@mscmlaw.com Other: :-

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed: 15 minutes Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT: \$25.00
 EXEMPT: (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE CODE _____ Date: _____

Judge Signature: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

Custodial Parent (if applicable): _____

FREE PAID

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT FOR THE
SEVENTH JUDICIAL CIRCUIT

Steven K. Alukonis,
Plaintiff,

vs.

Wayne Keith Smith,
Defendant.

NOTICE OF MOTION AND MOTION TO
MAKE MORE DEFINITE AND CERTAIN

Docket No.
2015-DR-42-2977

FILED
APR 20 11 08 AM
CLERK OF COURT

TO: STEVEN K. ALUKONIS, PLAINTIFF ABOVE-NAMED; ALLISON P. DUNHAM,
AND JOHN B. WHITE, ATTORNEYS FOR PLAINTIFF; AND ANGELA MOSS,
GUARDIAN AD LITEM

YOU WILL PLEASE TAKE NOTICE that the Defendant, Wayne K. Smith, by and
through his undersigned attorneys, will move on April 21, 2016 at
9:00 A.m., or as soon thereafter as counsel may be heard, before the Presiding
Judge of the Family Court for the Seventh Judicial Circuit at Spartanburg, South
Carolina for an Order granting the following relief:

1. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 7(e) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that Defendant is unfit.
2. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 7(f) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that there are compelling circumstances that exist warranting an award of custody to Plaintiff.

FILED

3. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 9(e) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that Defendant is unfit.
4. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 9(f) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that there are compelling circumstances that exist warranting an award of custody to Plaintiff.
5. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 10(b) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that Defendant's contact with the minor child should be in a supervised and restricted setting.
6. For an award of attorney's fees and costs in filing this Motion.

The basis for this Motion is that the allegations in the SEVENTH, NINTH and TENTH paragraphs of Plaintiff's COMPLAINT are so vague and ambiguous that Defendant cannot reasonably be required to frame a responsive pleading to the same.

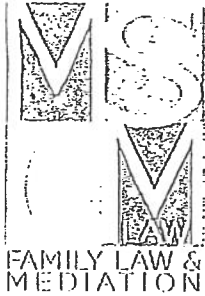
Further, this Motion is based upon the statutes and case law of the State of South Carolina and the ANSWER AND COUNTERCLAIM filed on behalf of Defendant.

McDougall, Self, Currence & McLeod, LLP

By: ALYSSA H. RICHARDSON

ALYSSA H. RICHARDSON
791 Greenlawn Drive, Suite 4
Post Office Box 90860
Columbia, SC 29290
Telephone: (803) 776-3130
Facsimile: (803) 776-7748
ATTORNEYS FOR DEFENDANT

January 21, 2016



McDougall Self Currence McLeod LLP

John O. McDougall*†
Michael W. Self*
Peter G. Currence
Ryan A. McLeod*‡
Alyssa H. Richardson

791 Greenlawn Dr. #4, Columbia, SC 29209-2643
P.O. Box 90860, Columbia, SC 29290-1860
803.776.3130 phone; 803.776.7748 fax
21 East Calhoun St., Sumter, SC 29150-4315
P.O. Box 2197, Sumter, SC 29151-2197
803.778.5062 phone; 803.778.6908 fax

February 10, 2016

VIA US MAIL

Allison P. Dunham
Harrison White Smith & Coggins, PC
Post Office Box 3547
Spartanburg SC 29304-3547

Re: Steven K. Alukonis v Wayne K. Smith
Docket # 2015-DR-42-2977

Dear Ms. Dunham:

Enclosed please find a filed copy of Plaintiff's NOTICE OF MOTION AND MOTION TO MAKE MORE DEFINITE AND CERTAIN and MOTION AND ORDER INFORMATION FORM AND COVERSHEET, which I hereby serve upon you by mail. Also enclosed, please find an Affidavit of Service regarding the same.

With kind regards.

Sincerely,

PETER G. CURRENCE

AHR:sb

Enclosures

cc: Wayne K. Smith (via email only)
Angela J. Moss (via email only)

Reply to Columbia | alyssa@miscmlaw.com | www.miscmlaw.com

*Diplomate, American College of Family Trial Lawyers †Fellow, International Academy of Matrimonial Lawyers
‡Fellow, American Academy of Matrimonial Lawyers †Certified Family Court Mediator

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT FOR THE
SEVENTH JUDICIAL CIRCUIT

Steven K. Alukonis,
Plaintiff,

vs.

Wayne Keith Smith,
Defendant.

AFFIDAVIT OF SERVICE

Docket No.
2015-DR-42-2977

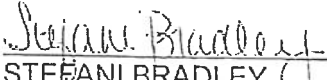
I, the undersigned, a Legal Assistant / Paralegal of McDougall, Self, Currence & McLeod, LLP, attorneys for the Plaintiff above named, do hereby certify that I have on February 5, 2016 served the NOTICE OF MOTION AND MOTION TO MAKE MORE DEFINITE AND CERTAIN and MOTION AND ORDER INFORMATION FORM AND COVERSHEET dated January 26, 2016, by emailing and by personally depositing in a United States Postal Service mail box a copy of the same, postage prepaid, addressed to the Defendant's attorney(s) and the Guardian *ad Litem* as indicated below:

Allison P. Dunham
Harrison White Smith & Coggins, PC
Post Office Box 3547
Spartanburg SC 29304-3547

Angela J. Moss
366 N. Church St., Ste. 3000
Spartanburg SC 29303
afjmoss@yahoo.com

Columbia, South Carolina

February 5, 2016



STEFANI BRADLEY
Legal Assistant / Paralegal

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

Steven K. Alukonis,)
)
) Plaintiff,)
)
) vs.)
)
)
Wayne Keith Smith,)
)
) Defendant.)

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Docket No. 2015-DR-42-2977

FILED
MAY 28 2015
M 9:35
CLERK OF COURT

Plaintiff's Attorney: Allison Peters Dunham Harrison White Smith & Coggins, PC Post Office Box 3547 Spartanburg, SC 29304-3547		Defendant's Attorney: Alyssa H. Richardson, Bar No. 79043 Address: Post Office Box 90860, Columbia, SC 29290-1860 Phone: (803) 776-3130 Fax (803) 776-7748 E-mail: alyssa@mscmlaw.com Other: :	
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: Estimated Time Needed: 15 minutes Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO			
SECTION II: Motion/Order Type			
<input type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
Signature of Attorney for <input type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant		Date submitted	
SECTION III: Motion Fee			
<input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: (check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____			
JUDGE'S SECTION			
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____		JUDGE CODE _____ Date: _____ Judge Signature: _____	
CLERK'S VERIFICATION			
Collected by: _____		Date Filed: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____			

Custodial Parent (if applicable): _____

FEE PAID

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT FOR THE
SEVENTH JUDICIAL CIRCUIT

Steven K. Alukonis,
Plaintiff,

vs.

Wayne Keith Smith,
Defendant.

NOTICE OF MOTION AND MOTION TO
MAKE MORE DEFINITE AND CERTAIN

Docket No.
2015-DR-42-2977

SPARTANBURG COUNTY
FAMILY COURT
JUL 1 2015
ALL B...

TO: STEVEN K. ALUKONIS, PLAINTIFF ABOVE-NAMED; ALLISON P. DUNHAM,
AND JOHN B. WHITE, ATTORNEYS FOR PLAINTIFF; AND ANGELA MOSS,
GUARDIAN AD LITEM

YOU WILL PLEASE TAKE NOTICE that the Defendant, Wayne K. Smith, by and
through his undersigned attorneys, will move on April 26, 2016 at
9:00 A.m., or as soon thereafter as counsel may be heard, before the Presiding
Judge of the Family Court for the Seventh Judicial Circuit at Spartanburg, South
Carolina for an Order granting the following relief:

1. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 7(e) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that Defendant is unfit.
2. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 7(f) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that there are compelling circumstances that exist warranting an award of custody to Plaintiff.

FREE COPY

3. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 9(e) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that Defendant is unfit.
4. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 9(f) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that there are compelling circumstances that exist warranting an award of custody to Plaintiff.
5. Requiring Plaintiff to make more definite and certain the allegations contained in Paragraph 10(b) of Plaintiff's COMPLAINT, by setting forth with specificity, the facts supporting his allegation that Defendant's contact with the minor child should be in a supervised and restricted setting.
6. For an award of attorney's fees and costs in filing this Motion.

The basis for this Motion is that the allegations in the SEVENTH, NINTH and TENTH paragraphs of Plaintiff's COMPLAINT are so vague and ambiguous that Defendant cannot reasonably be required to frame a responsive pleading to the same.

Further, this Motion is based upon the statutes and case law of the State of South Carolina and the ANSWER AND COUNTERCLAIM filed on behalf of Defendant.

McDougall, Self, Currence & McLeod, LLP

By: *Alyssa H. Richardson*

ALYSSA H. RICHARDSON
791 Greenlawn Drive, Suite 4
Post Office Box 90860
Columbia, SC 29290
Telephone: (803) 776-3130
Facsimile: (803) 776-7748
ATTORNEYS FOR DEFENDANT

January 21, 2016