



SUSAN LAKER TOLBERT  
JUDGE

**Court of Common Pleas**  
**Division of Domestic Relations**  
**Hamilton County**  
**Cincinnati, Ohio 45202**

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March 31, 2010

Cathy R Cook Esq  
114 East Eighth Street  
Cincinnati, OH 45202-0000

Rebecca J Allf Esq  
11230 Cornell Park Dr  
Cincinnati, OH 45242-0000

RE: Donald Joseph Fisse Jr vs Tamatha Lynn Fisse  
Case No.: DR0600779  
File No.: E229103

Dear Counsel,

Enclosed please find a copy of the Judge's Decision in reference to the above captioned matter. If you have any questions please contact me at (513) 946-9017.

Respectfully,

Wm. A. Davis  
Bailiff

COPY

COURT OF COMMON PLEAS  
DIVISION OF DOMESTIC RELATIONS  
HAMILTON COUNTY, OHIO

COURT OF COMMON PLEAS  
ENTER  
HON. SUSAN LAKER TOLBERT  
THE CLERK SHALL SERVE NOTICE  
TO PARTIES PURSUANT TO CIVIL  
RULE 68 WHICH SHALL BE TAXED  
AS COSTS HEREIN.

Donald Joseph Fisse Jr  
Plaintiff

Enter: \_\_\_\_\_

Date: March 31, 2010

-vs-

ENTERED  
MAR 31 2010

Case No. DR0600779 POST

File No. E229103

CSEA 7043799118

No. \_\_\_\_\_

Tamatha Lynn Fisse  
Defendant

Judge: Susan Laker Tolbert

ENTRY ON OBJECTIONS

This matter came before the Court pursuant to objections filed by Plaintiff/Father and those filed by Defendant/Mother to the Decision of Magistrate filed January 27, 2010. Only a partial transcript of proceedings has been filed. The Court has reviewed the partial transcript and the documents admitted into evidence at the hearings. Because the Magistrate's Findings of Fact in the Decision of January 27, 2010 are not inconsistent with the evidence submitted, the Court accepts and adopts those factual findings.

Defendant/Mother's Motion to Dismiss is not well taken and is hereby denied.

Defendant/Mother's request for attorney fees for the objection is not well taken and is hereby denied.

1. Plaintiff/Father's first objection is to the failure of the Magistrate to award him make-up parenting time. The Magistrate found that compensatory parenting time was appropriate, however, such parenting time was merged into the additional parenting time granted according to the modified schedule "in order to provide stability and a regular routine and schedule for the minor children." There is no evidence that this method of providing compensatory time was not appropriate or in the children's best interests. This objection is not well taken and is hereby overruled.

2. Plaintiff/Father second objection was to the amount of attorney fees awarded. Since there is no evidence in support of this objection it is found not to be well taken and is hereby overruled.

3. Plaintiff/Father objects to the new parenting time schedule in the Magistrate's Decision. He claims that the decision grants him less non-sleeping time with the children. In addition, he requests that he obtain the children for his parenting time commencing at 5:00 PM on Fridays as well as Tuesdays and Thursdays. Plaintiff/Father is correct that there is some inconsistency in the finding that spending additional time would be in the children's best interests and in the schedule ordered. Plaintiff/Father is not correct, however, that sleeping time is not quality parenting time. Moreover, since one of the concerns for the children is the conflict between the parents, interaction between the parents and exchange times should be minimized. Therefore, the Tuesday parenting time for Plaintiff/Father should be overnights. This objection is partially well taken and is hereby sustained.

4. Defendant/Mother objects to the change of location for the exchanges of the children. Since there is no evidence in support of this objection it is found not to be well taken and is hereby overruled.

5. Defendant/Mother objects to the finding of contempt. Since there is no evidence in support of this objection it is found not to be well taken and is hereby overruled.

The Court hereby accepts and adopts that portion of the Magistrate's Decision filed January 27, 2010 that is not inconsistent with this Entry.

**IT IS HEREBY ORDERED:**

1. Defendant/Mother Motion To Amend and Plaintiff/Father's Motion To Change The Children Exchange Site are found well taken and granted. Pending further order of the Court, any exchange of the children that does not take place at the children's day care center during its normal house of operation shall take place in the Monroe Police Department parking lot.

2. Defendant/Mother's Motion For Psychological Evaluation and Plaintiff/Father's Motion To Dismiss Defendant's Motion For Psychological Evaluation have been rendered moot.

3. Plaintiff/Father's Motion For "Make-Up" Parenting time is found well taken in part and granted in part. In order to provide stability and a regular routine and schedule for Cameron

3. Plaintiff/Father's Motion For "Make-Up" Parenting time is found well taken in part and granted in part. In order to provide stability and a regular routine and schedule for Cameron and Levi in the immediate future, compensatory time requested by Plaintiff/Father and awarded herein shall be merged into the additional parenting time awarded to Plaintiff/Father herein.

4. Plaintiff/Father's Motion For Contempt is found well taken and granted. Defendant/Mother is found in contempt for her failure to engage in therapy and to obtain a medication evaluation as required by the Decree of Divorce. Defendant/Mother is sentenced to 30 days in the Hamilton County Justice Center. That sentence is stayed indefinitely pending Defendant/Mother's compliance with the following purge requirement.

Defendant/Mother may purge herself of the contempt and avoid imposition of the 30 day sentence by commencing a therapeutic relationship with a licensed clinical psychologist within 3 months of journalization of this Entry and by continuing that relationship until it is deemed no longer necessary or beneficial by the treating psychologist; by having a medication evaluation done by a psychiatrist within 3 months of the journalization of this entry; and by paying to Plaintiff/Father the sum of \$1,000.00 as and for contribution toward the reasonable and necessary attorney fees incurred by Plaintiff/Father in this matter no later than six months after entry of this decision.

If purged, Defendant/Mother must provide documentary proof of her full compliance to counsel for Plaintiff/Father no later than July 31, 2010. If such proof is not timely provided, counsel for Plaintiff/Father shall immediately place this matter on the docket of Judge Susan Laker Tolbert for imposition of the 30-day sentence. Plaintiff/Father shall assume physical custody of Cameron and Levi Fisse during any period of Defendant/Mother's incarceration.

5. To the extent not granted herein, Plaintiff/Father's Motion For Attorney Fees is found not well taken and denied.

6. Plaintiff/Father's Motion To Modify Parenting Time is found well taken and granted. Commencing April 1, 2010 Plaintiff/Father shall be granted parenting time with the minor children of the parties pursuant to Schedule D, as modified, of the Standard Parenting Order adopted by this court, a copy of which is attached hereto and incorporated herein by reference. Plaintiff/Father's parenting time on alternating Tuesdays and Thursdays shall be overnights commencing at 5:00 PM when Plaintiff/Father shall provide transportation from the children's day care center and shall conclude the following morning at the commencement of school by returning them to the day care center. Parenting time for the alternating weekends shall also begin at 5:00 PM on that Friday. Any other exchanges shall take place at the Monroe Police Department parking lot.

7. Plaintiff/Father's Motion To Modify Child Support And Health Insurance Obligation is dismissed at the request of Plaintiff/Father.

8. Plaintiff/Father's Motion For An Order Requiring the Parties To Return The Children's Clothing During the Children Exchange is dismissed at the request of Plaintiff/Father.

IT IS SO ORDERED.

TRANSCRIPT OF PROCEEDINGS HAS  
NOT BEEN PROVIDED TO THE  
COURT

ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES PARENTING SCHEDULE FOR  
HAMILTON COUNTY COURT OF DOMESTIC RELATIONS

DONALD JOSEPH FISSE JR  
PLAINTIFF / PETITIONER

-AND-

TAMATHA LYNN FISSE  
DEFENDANT / PETITIONER

ENTER: \_\_\_\_\_  
JUDGE/MAGISTRATE

DATE: MARCH 30, 2010

CASE NO. DR0600779

FILE NO. E229103

CSEA No. 7043799118

JUDGE TOLBERT

STANDARD PARENTING ORDER

During and after a divorce, there is often a crisis period (from several months to years) during which families are under great stress because of loss, conflict and change. Most studies show, and psychologists uniformly agree, that the children who "do best" following divorce are from families which maintain a low level of conflict. The absence of conflict is even more critical than the amount of time either parent spends with the child.

However, children clearly profit by continued meaningful exposure to both parents. Children need the continuing and regular involvement of both parents to feel loved. No specific schedule will satisfy the change in needs of both children and parents over the years. Critical to the success of any schedule is that each parent be flexible based upon the changing needs of a child as the child grows older.

This court order takes into account the changing developmental needs of children. It is recognized that each situation and each child is different, and it is preferred that parents tailor the parenting schedule to meet the specific needs of their children.

A good parenting plan developed for a family should be based upon the following considerations:

1. The developmental needs and age of each child
2. The psychological attachments of each child
3. The way the child-rearing tasks were shared during the marriage
4. The preservation or development of a close relationship with each parent
5. A consistent and predictable schedule that minimizes the transition between the households
6. Each child's temperament and ability to handle change
7. Parents' career demands and work schedules
8. The need for periodic review of the plan, noting trouble signs and revising as each child's needs and circumstances change

If parents have not filed with the Court their own agreed written plan, for good cause shown, the following schedule of parenting time (court order in boldface print) is hereby ordered:

1. TERMINOLOGY:

For purposes of this order, Mother is designated the residential parent and Father is designated the non-residential parent.

For purposes of a Shared Parenting Plan, wherever "residential parent" appears, the name of Mother shall be substituted as if rewritten, and wherever "non-residential parent" appears, the name of Father shall be substituted as if rewritten. For purposes of the following parenting schedule, "week 1" is considered to be the first full week of each calendar year with Monday regarded as the first day of the week.

PARENTS WITH CHILDREN IN MORE THAN ONE AGE GROUP:

The policy of the following time allocation is to provide a schedule which is best suited for the particular age of that child(ren). When a family has children in more than one age group, the parents should either adapt the schedule to fit the needs of each child or follow Schedule C.

2. WEEKLY SCHEDULE

Basic Principles: Birth to Five Years

- i. Particularly with very young children, the more frequently the non-residential parent sees the child(ren), the more appropriate it is to have longer periods of time with the non-residential parent.
- ii. If the non-residential parent has not had regular contact with the child, short periods of parenting time must precede extended periods.
- iii. With children over the age of 3 months, and particularly with children in the preschool years, more overnight time may be appropriate, subject to the temperament of the child and the circumstances of each family.

The non-residential parent shall have parenting time as follows:

A. **Birth to 3 months:** frequent short visits in the baby's home, unless otherwise specified. If the residential parent is not working outside the home, daily from 6:00 pm until 8:00 pm. If the residential parent is working outside the home, every other day from 6:00 pm until 8:00 pm. The non-residential parent may take the child out for walks or drives if sleeping and feeding are provided for.

B. **3 months to 3 years:**

Frequent short visits per agreement or, Tuesday and Thursday evenings from 5:30 pm until 8:30 pm

One day every weekend, alternating Saturday/Sunday from 10:00 am until 6:00 pm

\* Beginning at 12 months, the Saturday parenting time shall begin on Friday at 6:00 pm until Saturday at 6:00 pm

C. **3 to 5 years:**

Tuesday and Thursday evenings from 5:30 pm until 8:30 pm

A rotating four week schedule as follows:

Week 1-Friday 6:00 pm until Saturday at 6:00 pm

Week 2-Saturday 6:00 pm until Sunday at 6:00 pm

Week 3-Friday 6:00 pm until Sunday at 6:00 pm

Week 4-Residential Parent's weekend.

3 MONTHS TO 3 YEARS - PARENTING SCHEDULE							
	MON	TUE	WED	THU	FRI	SAT	SUN
Wk1		X		X			D
Wk2		X		X		D*	
Wk3		X		X			D
Wk4		X		X		D*	

X = Evenings  
D = 10:00 AM TO 6:00 PM

3 TO 5 YEARS - PARENTING SCHEDULE							
	MON	TUE	WED	THU	FRI	SAT	SUN
Wk1		X		X	O		
Wk2		X		X		O	
Wk3		X		X	O	O	
Wk4		X		X			

X = Evenings  
O = Overnight

**Basic Principles - Six to Eleven Years**

- i. Elementary school age children can adapt to longer periods of separation from their principal caretakers than younger children can.
- ii. The needs of the 6-11 year old child with regard to school schedules, homework, and extra-curricular activities must be respected.
- iii. Adjusting to and moving back and forth between two households increases the complexity of life for a child in a divorce situation. It may, therefore, be necessary to simplify other aspects of a child's life, e.g. by reducing the number of outside activities.

The non-residential parent shall have parenting time as follows:

D. **6 to 11 years:**

Alternate weekends from Friday evening at 6:00 pm To Monday morning before school, or summer care.

Overnight on the Thursday evening following that weekend from 6:00 pm to before school or summer care on Friday morning, and from 6:00 pm to 8:00 pm on the following Tuesday evening.

6 - 11 YEARS - PARENTING SCHEDULE							
	MON	TUE	WED	THU	FRI	SAT	SUN
Wk1		X			O	O	O
Wk2				O			
Wk3		X			O	O	O
Wk4				O			

X = Evenings  
O = Overnight

**Basic Principles: Twelve and Teenage Years**

- i. Parents should respect a teenager's need to spend time with peers and in organized activities, and less time with each parent, especially during weekends and summer holidays.
- ii. Quality of time is more important than a rigid schedule. Flexibility in scheduling is necessary. When possible, it is preferable to consider the teenager's wishes as long as the parents agree.

The non-residential parent shall have parenting time as follows:

E. **12 to 18 years:**

Tuesday and Thursday evenings from 5:30 pm until 8:30 pm

A rotating four week schedule as follows:

Week 1-Friday 6:00 pm until Saturday at 6:00 pm

WEEK 2-SATURDAY 6:00 PM UNTIL SUNDAY AT 6:00 PM

Week 3-Friday 6:00 pm until Sunday at 6:00 pm

Week 4-Residential Parent's weekend

12-TEENAGERS - PARENTING SCHEDULE							
	MON	TUE	WED	THU	FRI	SAT	SUN
Wk1		X		X	O		
Wk2		X		X		O	
Wk3		X		X	O	O	
Wk4		X		X			

X = Evenings  
O = Overnight

### 3. HOLIDAY SCHEDULE/EXTENDED PERIODS

A. Parents may wish to change, by agreement, a holiday at least one week in advance in order to observe family or religious traditions. If not changed by agreement holiday times, where relevant, are as follows:

HOLIDAYS	EVEN # YEARS	ODD # YEARS	AS AGREED, OR
New Year's Holiday *	Mother	Father	12/31, 6:00 pm - 1/1, 7:00 pm
Martin Luther King Day	Father	Mother	Sun., 6:00pm - Mon., 7:00 pm
President's Day	Mother	Father	Sun., 6:00 pm - Mon., 7:00pm
Easter	Father	Mother	Sat., noon - Sun., 7:00 pm
Memorial Day	Mother	Father	Sun., noon - Mon., 7:00 pm
Fourth of July	Father	Mother	7/4, 9:00 am - 10:30 pm
Labor Day	Mother	Father	Sun., 6:00 pm - Mon., 7:00 pm
Halloween (Beggar's Night)	Father	Mother	5:00 pm - 8:00 pm
Thanksgiving	Mother	Father	Weds., 6:00 pm - Fri., 7:00 pm
Christmas Eve	Father	Mother	12/23, noon - 12/24, 10:00 pm
Christmas Day	Mother	Father	12/24 10:00pm - 12/26, 6:00pm
Kwanzaa	Father	Mother	1st night, 5:00 pm-9:30 pm
Rosh Hashanah Eve	Mother	Father	5:00 pm - 9:30 pm
Rosh Hashanah Day	Father	Mother	9:00 am - 7:00 pm
Yom Kippur Eve	Mother	Father	5:00 pm - 9:30 pm
Yom Kippur Day	Father	Mother	9:00 am - 7:00 pm
Passover (1st night)	Mother	Father	5:00 pm - 9:30 pm
Hanukkah (1st night)	Father	Mother	6:00 pm - 8:30 pm
Mother's Day	Mother	Mother	10:00 am - 7:00 pm
Father's Day	Father	Father	10:00 am - 7:00 pm
Child's B'day (school)	Father	Mother	5:30 pm - 8:30 pm
Child's B'day (no school)	Father	Mother	10:00 am - 8:30 pm

\* New Year's Holiday is governed by the year in which New Year's Day falls. It is not governed by the year in which New Year's Eve falls.

B. When a child reaches the age of two, the non-residential parent shall be entitled to four weeks of additional time each year. After the age of five, two weeks may be taken consecutively. This time may be exercised during the summer, the child(ren)'s spring break from school (every other year) or at any other appropriate time during the year. This time may also be exercised during the child(ren)'s school break at Christmas (every other year), but under no circumstances shall the additional extended time commence before December 26 and continue past 6:00 pm on December 31. For children ages two to five, said four week extended time may be taken in one week increments. Under the age of two there will be no extended periods.

C. The residential parent shall be entitled to two weeks of consecutive time each year.

D. Extended periods of time are to be arranged within seven days from the time the parents' vacation schedules are posted by their employers. Each parent shall notify the other parent in writing of the times desired for these extended periods no later than 30 days prior to the exercise of extended period. Where there is a conflict between parents as to vacation schedules, the schedule of the parent who first gives written notice to the other parent shall prevail.

E. In the event of a conflict, the following is the order of precedence: 1st Holidays; 2nd Extended periods; 3rd Weekends; and 4th Midweek days.

### 4. MISCELLANEOUS

A. The child(ren) and/or residential parent have no duty to wait for the non-residential parent to arrive for more than 30 minutes. The non-residential parent who is more than 30 minutes late for a particular period of time shall forfeit that period of time. Exception shall be made if, and only if, the tardiness of the non-residential parent is for just cause and the residential parent receives both prompt notification and a reasonable estimated arrival time.

B. The non-residential parent who is more than 30 minutes late in returning the child(ren) without calling to make arrangements and without just cause shall be subject to contempt.

C. When the residential parent will be gone overnight regardless of the age of the child(ren), the non-residential parent shall be afforded the opportunity to exercise overnight parenting time.

D. Make-up days shall be given if, due to an emergency, the child(ren) or non-residential parent is not available at the scheduled time or if the residential parent denies access to the child(ren) without just cause. All make-up dates shall be rescheduled and exercised within 30 days.

E. The parents shall make every effort to consider the child(ren)'s school schedule or reasonable extracurricular activities to serve the best interest of the child(ren).

F. In the event that the parents are unable to reach an agreement regarding transportation, \_\_\_\_\_ shall provide transportation at commencement of the period and \_\_\_\_\_ shall provide transportation at termination of the period.

G. The non-residential parent shall have frequent and ongoing telephone contact with the child(ren). The non-residential parent shall utilize this time in a reasonable fashion.

### 5. RECORDS/DAYCARE/STUDENT ACTIVITIES/MEDICAL ACCESS

A. The non-residential parent shall be entitled to access to any and all records related to the child(ren) to the same extent as is legally provided to the residential parent and under the same terms and conditions by which access is provided to the residential parent. The residential parent shall supply the keeper of any medical/school records of the child(ren) with a copy of his/her order. The residential parent shall supply any other keeper of any records of the child(ren) with a copy of this order upon request of either the non-residential parent or the keeper of the record.



B. In the event a child's illness requires medical attention by a physician, the residential parent shall promptly notify the non-residential parent. Elective surgery shall only be performed after consultation with the non-residential parent.

C. The non-residential parent shall be entitled to access to student activities relating to the child(ren) to the same extent as is legally provided to the residential parent and under the same terms and conditions by which access is provided to the residential parent. The residential parent shall provide the school(s) with a copy of this order.

D. The non-residential parent shall be entitled to access to any daycare center that is, or that in the future may be attended by the child(ren), to the same extent as is legally provided to the residential parent and under the same terms and conditions by which access is provided to the residential parent. The non-residential parent shall not remove the child(ren) from the daycare premises except during periods of time to which the non-residential parent is otherwise entitled pursuant to this order or except by written agreement of the parents. The residential parent shall provide a copy of this order to the daycare center.

**6. RELOCATION/REMOVAL**

A. In accordance with Rule 2.7 of the Court's Local Rules, the residential parent shall notify the Court and the other parent of any intent to relocate by completing Court Form 2.8 ("Notice of Intent to Relocate") and submitting it to the Court's Docket Office. If a Shared Parenting Plan is in effect, each parent must notify the Court and the other parent of any intent to relocate by complying with the provisions of Local Rule 2.7 and submitting Form 2.8. Form 2.8 is available in the Docket Office.

B. Neither parent may remove the child(ren) from Hamilton County or its contiguous Ohio counties (i.e. Butler, Warren, Clermont counties) and establish residence for them in another county without first obtaining a court order or an agreed entry permitting such removal. (Note: To have legal effect, an agreed entry must be signed by both parents, their attorneys (if any), and the Court, and thereafter be filed with the Hamilton County Clerk of Courts".)

**7. MODIFICATION/RESTRICTIONS AS FOLLOWS:**

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ANY KEEPER OF ANY RECORD WHO KNOWINGLY FAILS TO COMPLY WITH THIS ORDER, OR DIVISION (H) OF SECTION 3109.051 OF THE OHIO REVISED CODE, AND ANY SCHOOL OFFICIAL OR EMPLOYEE WHO KNOWINGLY FAILS TO COMPLY WITH THIS ORDER OR DIVISION (J) OF SECTION 3109.051 OF THE OHIO REVISED CODE IS IN CONTEMPT OF COURT.

WILLFUL NON-COMPLIANCE BY A PARENT WITH THIS ORDER MAY RESULT IN A FINDING OF CONTEMPT RESULTING IN THIRTY (30) DAYS TO NINETY (90) DAYS INCARCERATION, A \$250.00 TO \$1,000.00 FINE, AND AN AWARD OF THE MOVING PARENT'S ATTORNEY FEES AND COSTS.

BY SIGNATURE ON THIS AGREED ORDER, BOTH PARENTS EXPRESSLY, KNOWINGLY AND VOLUNTARILY WAIVE ANY REQUIREMENT THAT THE COURT ISSUE SEPARATE FINDINGS OF FACT/CONCLUSIONS OF LAW PURSUANT TO O.R.C. 3109.04, 3109.051 AND 3109.052.

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Magistrate Paul W Meyers      March 30, 2010

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Plaintiff/Petitioner

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Defendant/Petitioner

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Attorney for Plaintiff/Petitioner

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Attorney for Defendant/Petitioner