

APP A

SUPREME COURT OF NEW JERSEY
M-1006 September Term 2018
081774

Jacob Krasny,

Plaintiff,

v.

Angela Krasny,

Defendant-Movant.

FILED

JUN -3 2019

Heather J. Bates
CLERK

ORDER

It is ORDERED that the motion for reconsideration of the Court's order
denying the motion for leave to appeal is denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this
28th day of May, 2019.

Heather J. Bates

CLERK OF THE SUPREME COURT

A-1

SUPREME COURT OF NEW JERSEY
M-487/489 September Term 2018
081774

Jacob Krasny,

Plaintiff-Respondent,

v.

Angela Krasny,

Defendant-Movant.

FILED

JAN 11 2019

ORDER

Heather J. Bates
CLERK

It is ORDERED that the motions for leave to appeal (M-487) and to file a reply brief (M-489) are denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this 8th day of January, 2019.

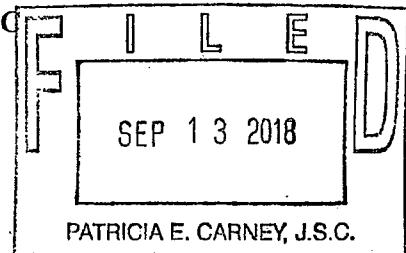
Heather J. Bates

CLERK OF THE SUPREME COURT

APPENDIX D

PREPARED BY THE COURT

JACOB KRASNY, : SUPERIOR COURT OF NEW JERSEY
Plaintiff, : CHANCERY DIVISION/FAMILY PART
: OCEAN COUNTY
v. :
: DOCKET NO. FM-15-1494-17 C
: CS91350392A
ANGELA KRASNY, :
Defendant. : CIVIL ACTION
: ORDER
:
:



THIS MATTER comes before the Court with the plaintiff being represented by Cipora Winters, Esq., and the defendant being self-represented; the Court finding it necessary to reconsider the Order dated July 27, 2018, as paragraphs 1 and 2 of same were vacated by the Appellate Division and the Order was remanded for reconsideration, to comport with the Appellate Court and Supreme Court's directives; and for good cause shown;

By way of background, the parties were married on November 9, 1997. Seven children were born of the marriage; S. (DOB: [REDACTED]), age 18, N. (DOB: [REDACTED]), age 15, M. (DOB: [REDACTED]), age 13, Y. (DOB: [REDACTED]), age 11, E. (DOB: [REDACTED]), age 9, N. (DOB: [REDACTED]), age 7, and Y. (DOB: [REDACTED]), age 4. On June 27, 2017, the husband filed a complaint for divorce. The parties' divorce remains pending.

A review of NJKIDS account number CS91350392A, as of July 26, 2018, reveals that Plaintiff is currently obligated to pay \$230 per week in child support. As of said date, the account reflects that Plaintiff has a current balance in the amount of \$2,960.00 in arrears, paid back at a rate of \$20.00 per week.

It is worth noting that the defendant was residing, or at least sheltered, in a confidential location in the State of California, where she obtained a Domestic Violence Order of Protection (DVRO) from the Superior Court of California, County of Marin, under Case Number FL1701554. Said DVRO has been subject to various amendments after several hearings and, as far as this court can determine, remains in effect until at least September 12, 2020. Defendant and the children were domiciled in Nevada during the school year, but are now in the process of moving back to California.

On April 26, 2017, Judge Brenner granted the plaintiff's Order to Show Cause (OTSC), filed under docket number FD-15-1015-17, and entered an order directing the defendant to return with the children to New Jersey and appear on May 10, 2017 stating why an order shall not be entered: 1) granting sole legal and physical custody of the children to the plaintiff; and 2) granting exclusive possession of the marital home to the plaintiff. In addition, the April 26, 2017 order stated that the court has jurisdiction of the matter pursuant to UCCJEA as codified under NJSA 2A:34-53 et. seq. as the children have lived in New Jersey for at least 6 consecutive months before the commencement of the custody proceeding.

On May 10, 2017, Judge Brenner entered an order denying, without prejudice, the plaintiff's OTSC seeking sole legal and physical custody of the children; granting him exclusive possession of the marital home; and for the issuance of a warrant for the defendant. The May 10, 2017 court order provided that the Superior Court of New Jersey shall assert primary jurisdiction over the parties upon the completion of the domestic violence proceedings in California.

On September 14, 2017, the California court found the plaintiff to be a "domestic abuser and issued a three-year restraining order to protect [defendant] and her children from him." The court also awarded the defendant sole legal and physical custody of the children.

In a ruling dated October 18, 2017 by Hon. Mark A. Talamantes, Superior Court of California, Marin County, the court recited the interaction between Judge Robert Brenner, J.S.C., of the Superior Court of New Jersey, Ocean County, and Honorable Verna Adams of the Superior Court of California, Marin County, wherein Judge Brenner suspended proceedings in New Jersey, granting the California Superior Court with “temporary emergency jurisdiction” over the parties in connection with the defendant’s claim of domestic violence and “temporarily conceded jurisdiction to [California] . . .” Pursuant to the October 18, 2017 ruling, on September 14, 2017, the court found that “[a]s part of the DVRO, . . . that it is in the best interests of the children to award custody of the children to Mother and referred the matter to Marin Family Court Services (“FCS”) to interview the parents and prepare a custody report and recommendations. After the FCS counselor spoke with both parents, FCS issued recommendations regarding child custody and visitation on October 16, 2017.” Thereafter, the court specifically set the matter for a hearing and review of the FCS report and recommendations. Based on the “voluminous declarations” in support and oppositions of the various motions addressed at the hearing on the restraining order, and after consideration of the recommendations issued by FCS, the court issued temporary orders addressing custody and visitation.

As a result of the California DVRO, the plaintiff’s parenting time is strictly limited to “professionally supervised visits, up to four hours each day, for no more than three consecutive days . . . with at least two weeks’ notice” in the State of California whenever he can travel there, but “none of the children shall be forced to attend any of the visits.” Plaintiff’s communication with the children is limited to letters or emails. Telephone calls and Skype calls shall occur only as desired and requested by each child. Further, the five oldest children shall be engaged in counseling and the two youngest shall be assessed as to their need for counseling and Defendant

is to follow the recommendations made by counselors regarding treatment for all the children. In addition, the California court required Plaintiff to attend a minimum of a 26-week Family Violence program and provide proof of successful participation. The most recent DVRO provided to this Court, dated October 18, 2017, provides the following paragraph regarding a potential transfer to New Jersey: "These custody and visitation orders are temporary orders. They expire upon transfer of custody jurisdiction back to the home state, New Jersey, which transfer shall occur no later than January 31, 2018."

On December 19, 2017, this court entered an order denying the plaintiff's application for emergent relief, filed on December 18, 2017. The court provided that the plaintiff's OTSC shall be treated as a motion" and scheduled the matter for a return date of January 26, 2018. Both parties were directed to discuss whether New Jersey should be treated as the "home state" with continuing and exclusive jurisdiction pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), N.J.S.A. 2A:34-53 to -95. The court designated the residency address and telephone number of the defendant's as confidential under R. 1:38-3(c)(12) as she qualifies as a "victim of domestic violence."

On January 23, 2018 the Court ordered that pending further proceedings in New Jersey, the parties shall continue to abide by the provisions of the Domestic Violence Order of Protection (DVRO) from the Superior Court of California, County of Marin, under Case Number FL1701554, including the provisions on custody and parenting time regarding the minor children.

On May 9, 2018, the Court received an updated attendance log reflecting plaintiff's continued attendance at his Batterers Intervention Program. The report states that plaintiff, "has attended 12 of 26 mandated sessions of the BIP program to date. His attendance and participation have been appropriate."

On May 11, 2018, the Court entered an Order denying defendant's request to enforce the counsel fee award entered by the California Court, and the defendant's request to reconsider the home state in this matter. The May 11, 2018 Order maintained New Jersey as the forum for the parties' divorce. Same ordered the defendant to return to New Jersey with the children and implement a parenting time schedule for the plaintiff. The defendant attempted to file an appeal under docket number A-004648-17 of this Court's May 11, 2018 Order.

On June 19, 2018, the plaintiff filed an Order to Show Cause seeking an order (1) ordering the defendant to bring the children to New Jersey on whatever non-stop flight plaintiff first arranges from Las Vegas following the issuance of this Order, (2) directing the Police and/or Sheriff's Department of whatever town or county the defendant is residing in with the children to enforce this Order, (3) allowing plaintiff's attorney to conduct whatever investigation possible to locate the defendant's residence with the children to effectuate this Order, but not share the address (if located) with the plaintiff, (4) directing that Rabbi and Mrs. Schonbrun as well as Rabbi and Mrs. Levy can serve as supervisors for plaintiff's Summer parenting time with the children, (5) directing that Jennifer Baker may serve as the Reconciliation Therapist for the plaintiff and the children, (6) directing that, for every day that the children are not on a plane traveling to New Jersey after June 20, 2018, that the children stay in New Jersey for one day longer at the end of Summer, and if the delay is of the extent that there are insufficient days in the Summer to provide for adequate parenting time and reconciliation therapy, that the children remain in New Jersey for the 2018-2019 school year, (7) directing that, if defendant refuses to bring the children for Summer parenting time, that the Court will entertain an application from plaintiff for transfer of custody, (8) awarding plaintiff's counsel fees and costs for the necessity of bringing this application, and (9) for such other relief as the Court may deem equitable and appropriate to these circumstances.

On June 21, 2018, the defendant filed a motion seeking an order: (1) staying enforcement of the Court's May 11, 2018 Order.

On June 27, 2018, the defendant filed a cross motion seeking an order: (1) dismissing the plaintiff's divorce complaint.

On July 27, 2018, the Court entered an order ordering the defendant to return to New Jersey with the children and implement a parenting time schedule for the plaintiff. Same granted the defendant's request for an order directing the Police and/or Sheriff's Department of whatever town or county the defendant is residing in with the children to enforce the Order. The defendant subsequently appealed this Order. As a result, the Appellate Division vacated paragraphs 1 and two of the July 27, 2018 Order and remanded for this Court to reconsider the Order.

The Court having considered the documents filed, and for good cause shown;

It is on this 12th day of September, 2018 ORDERED:

1. The plaintiff shall be permitted professionally supervised parenting time with the children in California up to four hours each day, for no more than three consecutive days, with at least two weeks' notice to defendant whenever he can travel there. However, none of the children shall be forced to attend any of the visits. The plaintiff shall be responsible for the costs associated with the supervisor. The goal shall be that the plaintiff shall be able to exercise parenting time with the children in New Jersey during next summer, provided that the therapists and supervisor are in agreement that same is appropriate at that time. Any Costs associated with the plaintiff's parenting time in New Jersey shall be borne solely by the plaintiff.

3. Plaintiff's attorney shall continue to communicate with defendant via email. Defendant is to ensure that plaintiff's attorney is provided with a current and active email address.

4. The parties shall commence the plaintiff's parenting time and reunification therapy. The parties are to agree on a supervisor for the plaintiff's parenting time in California, within fifteen (15) days of this Order. If they are unable to agree, each party shall submit two (2) names and the Court shall make the selection. The cost of same shall be paid by the plaintiff.

5. The parties shall be required to select a therapist and supervisor in California, pursuant to the May 11, 2018 Order. The parties shall discuss and agree, through counsel, on the professional best suited to provide reunification therapy for the children within fifteen (15) days of this Order. If they are unable to agree, each party shall submit two (2) names and the Court shall make the selection. The cost of same shall be paid by the plaintiff.

10. The defendant shall sign the releases provided by plaintiff's attorney and provide same to the children's school as well as a copy to plaintiff's attorney within three (3) days of this order.

1. **Return Children.** The plaintiff's request for an order ordering the defendant to bring the children to New Jersey on whatever non-stop flight plaintiff first arranges from Las Vegas following the issuance of this Order is **DENIED, without prejudice**. As discussed above, the May 11, 2018 Order required the defendant to return to New Jersey with the children and implement a parenting time schedule for the plaintiff for the summer. The plaintiff was

to be responsible for the cost of the flights for the family to return to New Jersey. The plaintiff certifies that the defendant first refused to accept the tickets that he booked for the children because it was a red-eye flight. Plaintiff then booked new flights that satisfied defendant's demands that the children fly during the day, but the defendant failed to respond to plaintiff's request to confirm receipt of same. Defendant certifies that she has not complied with the requirement to transport the children to New Jersey for several reasons; she was not provided with round trip tickets, the proposed tickets are in direct conflict with mandatory court appearances caused by motions of plaintiff's California attorney, she has not found a safe and affordable place to house herself and the children, she has the right to live in a confidential location which she indicates she has been unable to locate, and her request for a stay includes the directive to return to New Jersey as she appealed the entirety of the Court's May 11, 2018 Order. Plaintiff certifies that he believes the defendant has no intention to bring the children to New Jersey. Plaintiff, therefore, requests that the defendant be compelled to transport the children to New Jersey on any non-stop flight that he books for them. While the July 27, 2018 Order required the defendant to return the children to New Jersey for the rest of summer, the children have now likely already resumed the school year. Therefore, the defendant shall not be required to return the children to New Jersey at this time. Pursuant to the California Order, the plaintiff shall be permitted professionally supervised parenting time with the children as follows; up to four hours each day, for no more than three consecutive days, with at least two weeks' notice to defendant in the State of California whenever he can travel there. However, none of the children shall be forced to attend any of the visits. The plaintiff shall be responsible for the costs associated with the supervisor. The goal shall be that the

plaintiff shall be able to exercise parenting time with the children in New Jersey during next summer, provided that the therapists and supervisor are in agreement that same is appropriate at that time. Any Costs associated with the plaintiff's parenting time in New Jersey shall be borne solely by the plaintiff.

2. **Enforcing this Order.** The plaintiff's request for an order directing the Police and/or Sheriff's Department of whatever town or county the defendant is residing in with the children to enforce this Order is **DENIED, without prejudice**. The defendant and the children reside in California. As such, the plaintiff may initiate proceedings in California to enforce the Court's Order should the defendant fail to comply.
3. **Address Investigation.** The plaintiff's request for an order allowing plaintiff's attorney to conduct whatever investigation possible to locate the defendant's residence with the children to effectuate this Order, but not share the address (if located) with the plaintiff is **DENIED, without prejudice**. Plaintiff's attorney shall continue to communicate with defendant via email. Defendant is to ensure that plaintiff's attorney is provided with a current and active email address.
4. **Supervisors.** The plaintiff's request for an order directing that Rabbi and Mrs. Schonbrun as well as Rabbi and Mrs. Levy can serve as supervisors for plaintiff's summer parenting time with the children is **DENIED, without prejudice**. The May 11, 2018 Order provided that the parties were to agree on a supervisor for the plaintiff's parenting time within fifteen (15) days of that Order. The plaintiff certifies that he chose two couples in Lakewood who could serve as supervisors for his parenting time and reached out to defendant to inform her of same. Plaintiff states that, in response, defendant recommended three different supervisors. Two of whom are professional therapists charging up to \$150 per hour and are

outside of plaintiff's insurance plan. Plaintiff insists that he cannot pay up to \$1,800 per week for supervision of his parenting time. Moreover, plaintiff states that he anticipates a majority of his parenting time would be spent taking the children to parks and engaging in other outdoor summer activities, but using a professional therapist would require his parenting time to take place in a therapist's office. Plaintiff's attorney informed the defendant that they required free and flexible supervisors and therefore, would be unwilling to assign a professional therapist as supervisor, but plaintiff certifies that the defendant failed to respond to the letter. The defendant argues that the plaintiff simply selected his personal friends to serve as supervisors. Defendant further argues that the children show severe signs of abuse and therefore, require someone more qualified to recognize when they are being traumatized for their own safety. As indicated by the defendant, the December 20, 2017 Order provides that the plaintiff shall have "professionally supervised" visits with the children. Defendant also argues that the plaintiff should be permitted no parenting time until he has completed his mandated BIP. The plaintiff provided proof during the July 27, 2018 motion hearing that he has now completed the Program. As discussed in paragraph 1, the parties shall commence the plaintiff's parenting time and reunification therapy. The parties are to agree on a supervisor for the plaintiff's parenting time in California, within fifteen (15) days of this Order. If they are unable to agree, each party shall submit two (2) names and the Court shall make the selection. The cost of same shall be paid by the plaintiff.

5. **Reconciliation Therapist.** The plaintiff's request for an order directing that Jennifer Baker may serve as the Reconciliation Therapist for the plaintiff and the children is **DENIED**, without prejudice. Paragraph 10 of the May 11, 2018 Order states, "The parties are to

discuss and agree, through counsel, on the professional best suited to provide reunification therapy for the children within fifteen (15) days of this Order. If they are unable to agree, each party shall submit two (2) names and the Court shall make the selection. The cost of same shall be paid by the plaintiff." The plaintiff requests that Jennifer Baker, one of the names submitted by the defendant as a proposed supervisor, be appointed as the reunification therapist. Plaintiff states that he believes that her skills as a therapist better translate to the role of reunification therapist, rather than as a parenting time supervisor. However, as the children are not returning to New Jersey at this time, the parties shall be required to select a new therapist and supervisor in California, pursuant to the May 11, 2018 Order. The parties shall discuss and agree, through counsel, on the professional best suited to provide reunification therapy for the children within fifteen (15) days of this Order. If they are unable to agree, each party shall submit two (2) names and the Court shall make the selection. The cost of same shall be paid by the plaintiff.

6. **School Year Visit.** The plaintiff's request for an order directing that, for every day that the children are not on a plane traveling to New Jersey after June 20, 2018, that the children stay in New Jersey for one day longer at the end of Summer, and if the delay is of the extent that there are insufficient days in the Summer to provide for adequate parenting time and reconciliation therapy, that the children remain in New Jersey for the 2018-2019 school year is **DENIED, without prejudice.** As discussed above, the defendant was required to bring the children to New Jersey and help effectuate parenting time with the plaintiff this summer. However, defendant failed to comply with the Order. In order to offset the time that the defendant violated the Order by refusing to return the children to New Jersey, the plaintiff requests that the Court enter an order that the children stay in New Jersey for one

day longer at the end of the summer and potentially for the 2018-2019 school year should the defendant continue to violate the Order. However, as discussed herein, the defendant is no longer required to return the children to New Jersey.

7. **Transfer Custody.** The plaintiff's request for an order directing that, if defendant refuses to bring the children for summer parenting time, that the Court will entertain an application from plaintiff for transfer of custody is **DENIED, without prejudice**. Pending further Order of the Court the parties are to maintain the status quo.
8. **Counsel Fees.** The plaintiff's request for an order awarding plaintiff's counsel fees and costs for the necessity of bringing this application is **DENIED, without prejudice**. In its discretion, the court may consider whether to award counsel fees and should consider, in addition to the information required to be submitted pursuant to R.4:42-9: (1) the financial circumstances of the parties; (2) the ability of the parties to pay their own fees or to contribute to the fees of the other party; (3) the reasonableness and good faith of the positions advanced by the parties both during and prior to trial; (4) the extent of the fees incurred by both parties; (5) any fees previously awarded; (6) the amount of fees previously paid to counsel by each party; (7) the results obtained; (8) the degree to which fees were incurred to enforce existing orders or to compel discovery; and (9) any other factor bearing on the fairness of the award. R. 5:3-5. Additionally, the court must consider: (1) the applicant's need; (2) the other party's ability to pay; and (3) the good or bad faith of both parties. Williams v. Williams, 59 N.J. 229, 233 (1971). After a review of these factors, the court will not award any counsel fees at this time.
9. **Other Relief.** The plaintiff's request for an order for such other relief as the Court may deem equitable and appropriate to these circumstances is **DENIED, without prejudice**.

10. **Staying Enforcement.** The defendant's request for an order staying enforcement of the Court's May 11, 2018 Order is **DENIED, without prejudice.** R. 2:9-1(a) states, "Except as otherwise provided by R. 2:9-3, 2:9-4 (bail), 2:9-5 (stay pending appeal), 2:9-7, 2:9-13(f), and 3:21-10(d), the supervision and control of the proceedings on appeal or certification shall be in the appellate court from the time the appeal is taken or the notice of petition for certification filed." R. 2:9-5 provides that a stay may be ordered when a Motion to Stay is filed in the Court which entered the Judgment or Order prior to the date of the oral argument in the appellate court or of submission to the appellate court for consideration without argument. As discussed above, the defendant appealed the entirety of the Court's May 11, 2018 Order under docket number A-004648-17. On June 18, 2018, the defendant received correspondence from the Appellate Court informing her that her Notice of Appeal was not perfected as there were deficiencies in the filing. The defendant argues that the trial court erred by proceeding when jurisdiction had not been transferred back to New Jersey. However, as discussed in the May 11, 2018 Order and several prior orders, the California Courts were granted temporary jurisdiction solely for the purpose of handling the parties' DV matter. The defendant further argues that she was denied effective service consistent with due process of law. She argues that she was never served with the plaintiff's Complaint for Divorce despite the parties being in the same Courtroom many times throughout 2017. Defendant further argues that under R. 4:37-2(a) involuntary dismissal may be ordered "[f]or failure of the plaintiff to cause a summons to issue within 15 days from the date of the Track Assignment Notice..." However, same provides that such dismissal may be granted in the Court's discretion. The Court finds that the defendant has been aware of the plaintiff's complaint and has seemingly evaded service since the

filings of the Complaint. Therefore, the Court shall not dismiss the defendant's Complaint on this basis. The defendant further argues that the trial Judge erred in changing the visitation provisions of the DVRO, reversing the decision to enforce the California Order, and failing to provide a finding of fact and state conclusions of law resulting in the defendant being denied an attorney and thus being denied a fair trial.

In considering whether to grant a stay or preliminary injunction the principles that may be considered are; whether irreparable harm will result if the application is not granted, whether the legal right underlying the party's claim is unsettled, whether the material facts are controverted, and the relative hardship to the parties in granting or denying relief.

Crowe v. De Gioia, 90 N.J. 126, 447 A.2d 173, (1982).

The plaintiff certifies that irreparable harm will be caused to him if the Order to Show Cause is not granted. The plaintiff certifies that the defendant has not facilitated his calls with the children, however, defendant certifies that she has facilitated them as required. Moreover, as required she has informed the plaintiff when the children do not wish to participate. The plaintiff argues that if the children are not returned to New Jersey, his relationship with them will "continue to atrophy." Defendant, on the other hand, argues that there will be irreparable harm to the children if they are made to return home for the summer. Defendant certifies that she fears for her safety, as well as the safety of her children if she is forced to return to New Jersey. In this case, the plaintiff is attempting to enforce the Court's Order, while the defendant looks to be relieved of its obligations. Here, the material facts of the case are undisputed. However, the defendant posits that the chronology of this matter places jurisdiction in California, while the plaintiff, as with this Court, finds that jurisdiction remains in New Jersey. With regard to the hardship placed on

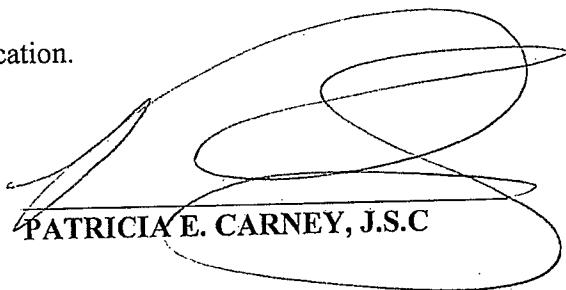
the parties, the plaintiff argues that this factor weighs in his favor. The plaintiff seeks to enforce a parenting time schedule for limited time during the summer in a supervised setting, with therapeutic reunification. On the other hand, the defendant has resided out of New Jersey for over one year. As discussed above, she certifies that there would be tremendous hardships with regard to getting her family back to New Jersey, as well as securing a place to live that is affordable and unknown to the plaintiff. Plaintiff insists that leaving California would cause her and the children irreparable harm as it would result in the loss of all public assistance including housing, income, food, insurance, and medical care for the children. Defendant certifies that the children would be unable to receive the medical and therapeutic care, as well as medications that they require as all their therapists and psychiatrists are in California and she would be she would be unable to afford their medications. Ultimately, a review of these factors is unnecessary at this time. As there is no appeal in place due to the defendant's failure to properly file, her request for a stay pending the appeal is premature. Nevertheless, the Court has considered the factors as discussed above. As the defendant and the children shall not be ordered to return to New Jersey at this time, there shall be no effect on defendant's public assistance benefits, or medical care for the children as indicted by the defendant. Additionally, paragraph 6 of the May 11, 2018 Order states, "Defendant is to sign the release provided by plaintiff's attorney and provide same to the children's school as well as a copy to plaintiff's attorney within seven (7) days of this order." Once again, the defendant has provided her own releases to the schools despite this directive. The defendant shall sign the releases provided by plaintiff's attorney and provide same to the children's school as well as a copy to

plaintiff's attorney within three (3) days of this order. Although previously provided, plaintiff's counsel may provide the authorizations to defendant if necessary.

11. Dismissing Complaint. The defendant's request for an order dismissing the plaintiff's divorce complaint is **DENIED, without prejudice**. The defendant states that she filed for divorce in California because she was never served the New Jersey divorce papers. As discussed above, it is clear that the defendant was aware that the plaintiff had filed a Complaint for Divorce in New Jersey. Nevertheless, defendant chose to file same in California, though it was also made clear during the October 18, 2017 ruling that Judge Brenner suspended proceedings in New Jersey, granting the California Superior Court "temporary emergency jurisdiction" over the parties in connection with the defendant's claim of domestic violence and "temporarily conceded jurisdiction to [California] . . ." The New Jersey Court's May 10, 2017 Order explicitly states, "the Superior Court of New Jersey shall assert primary jurisdiction over the parties upon completion of the domestic violence proceedings in CA on May 18, 2017." As discussed above, the Court shall not dismiss plaintiff's filing on R. 4:37-2 grounds. The defendant argues that when she filed for divorce, New Jersey had no jurisdiction over her "as stated in Judge Ryan's Order." However, the Order she points to simply provides that the Order itself did not constitute an Order allowing for substituted service of the summons and complaint for divorce upon the defendant. The plaintiff's Compliant shall not be dismissed at this time.

12. Service. As discussed above, the defendant argues that she has been available to be served in person in Court as the parties have appeared on several Court dates. However, she has stated that she is unwilling to accept service in person. Additionally, as the defendant's address is confidential, the plaintiff has been otherwise unable to properly effectuate

service of the Complaint. Prior to serving a complaint for divorce via publication, the moving party must employ any additional methods that are “available to plaintiff for reasonably effecting actual notice to defendant in addition to the jurisdictional requirement of service by publication.” The Court finds that the plaintiff has done so and as such, may serve the defendant by publication. Plaintiff’s attorney has provided proof that the defendant has been served by publication.



PATRICIA E. CARNEY, J.S.C.

**Additional material
from this filing is
available in the
Clerk's Office.**