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COMMITTEE ON OPINIONS.

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B. S.<sup>1</sup>,

Plaintiff,

v.

T. S.,

Defendant .

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SUPERIOR COURT OF NEW JERSEY  
OCEAN COUNTY  
CHANCERY DIVISION  
FAMILY PART

DOCKET NO. FM-15-209-11-N  
CIVIL ACTION  
OPINION

Decided: June 26, 2014

Janet Coven for plaintiff  
T. S., defendant, pro se

L. R. JONES, J.S.C.

When two divorced parents are both actively involved in a child's life, and one parent remarries or is about to marry a new partner, disputes often arise when the child starts calling the step-parent "Mom" or "Dad" over the non-marrying parent's objection. Further, court battles frequently occur over what role a new step-parent may appropriately play in a child's life, without

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<sup>1</sup> The court uses initials and first name pseudonyms in place of the parties', step-parent and child's actual names

intruding on a parent's role and authority. These issues, which arise in the case at bar,<sup>2</sup> have little precedential guidance under existing New Jersey case law.

For the reasons set forth in this opinion, the court holds the following:

a. When two parents divorce and one remarries, a child may wish to call a step-parent either by first name, or by "Mom" or "Dad", or a derivative of these words. In this case, where the child is of sufficient age and maturity to distinguish between his or her biological parent and step-parent, the choice of which way to address the step-parent belongs to the child, and not to either parent. Neither parent may force the child to either call a step-parent "Mom" or "Dad" against the child's will, or forbid the child from doing so.

b. If a child calls a step-parent "Mom" or "Dad", this action does not turn the step-parent into a parent. When two divorced and active parents share joint legal custody of a child, all major parenting decisions are to be made by the parents, and not by a step-parent. A step-parent, however, may assist the parent with whom he or she is partnered in helping raise a child, and in such capacity may potentially play an important, ongoing and positive role in a child's upbringing and life.

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<sup>2</sup> Post-judgment Litigation between the parties took place over 2013-14 regarding multiple child-related issues including custody, parenting time, financial issues, and step-parent issues. This opinion focuses specifically on step-parent issues, with the other issues having been addressed and adjudicated during the plenary hearing and related judicial proceedings, including plaintiff's retention of primary residential custody of the parties' child at this time.

## FACTUAL BACKGROUND

Plaintiff and defendant divorced in 2010. They have one child, “Daniel”<sup>3</sup>, an eight year old boy. The parties presently share joint legal custody of their son, with plaintiff serving as primary residential custodian and defendant regularly exercising parenting time. Both plaintiff and defendant are fit parents, and energetically involve themselves in caring for the child’s needs while playing positive roles in his life. Reciprocally, Daniel clearly enjoys a very close, affectionate and loving bond with both his father and his mother. Additionally, both parents confirm that Daniel has certain health and educational challenges, as he is a classified third grade student with certain learning disabilities and health-related issues.

Following divorce, plaintiff developed a long term relationship with another woman, “Lori”<sup>4</sup>, who is herself divorced and the mother and primary residential custodian of three young children from her prior marriage. The pair dated for several years and live together with their respective children as a blended family unit of six members under a single roof (plaintiff, Daniel, Lori, and Lori’s three children).

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<sup>3</sup> The court uses a first name pseudonym for the child in place of his actual name.

<sup>4</sup> The court uses a first name pseudonym in place of the non-party stepmother’s actual name.

Plaintiff and Lori are now engaged to be married. By all accounts, their relationship is very stable and healthy. As long-term cohabitants, plaintiff and Lori not only share financial expenses, but also assist each other in carrying out the daily domestic responsibilities of raising and caring for the four children in the household. Significantly, Daniel has a close, relationship with Lori's three children, who also continue to regularly see and spend time with their biological father (Lori's ex-husband). Plaintiff has a non-contentious, amicable relationship with the children's father as well.

Lori has a history of experience in childhood education, working as a tutor. She is also presently attending college pursuing a degree and career as a registered nurse. Lori often helps Daniel with his homework, and supervises the child on a regular basis when the parties are working and not otherwise exercising parenting time.

As noted, Daniel enjoys a very strong relationship with both of his parents. He also has a positive and loving relationship with Lori, whom he identifies as his step-mother.<sup>5</sup> In terms of how he addresses his parents, he always calls his

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<sup>5</sup> Technically plaintiff and L.P. are not yet married as of the date of this opinion. They are, however, engaged to marry in the near future, and for all practical purposes, both have already been functionally serving as the step-parent of each other's children for years.

father "Dad" and his mother "Mom," and never addresses either of them on a first name basis.

While Daniel initially referred to Lori by her first name, over time he started occasionally calling her "Mom" as well, which is consistent with how the other three children in his primary residence regularly address her. Plaintiff and Lori each assert that this development has occurred naturally and without any insistence, direction or compulsion on their part. Defendant, however, objects to the child calling the step-mother "Mom", and blames Lori for permitting this situation to occur. Implicitly, she accuses both plaintiff and Lori for shaping, encouraging and reinforcing the child's behavior and intruding on the sanctity of the mother/child relationship, rather than correcting the child and directing him (a) to call Lori only by her first name, and (b) to call nobody "Mom" except for defendant herself, as the child's one and only mother.

Additionally, defendant objects to Lori participating in any significant decisions regarding the child's welfare. In particular, plaintiff has advised defendant that he wishes to discuss important child-related issues with Lori before taking firm positions on same. Defendant, however, contends that child-related discussions and decisions should only be between the parties

exclusively, and that the step-parent has no place or relevant role in the process.

Defendant's concerns regarding a step-parent's role and relationship with the child were presented to the court in the context of the parties' ongoing post-judgment litigation concerning custody and parenting time disputes. During these proceedings, and pursuant to Rule 5:8-6, the court conducted an *in camera* child interview with Daniel. The interview reflected that the child has an excellent relationship with both his father and mother, and a strong relationship with his step-mother as well. All three of these individuals play important, positive, and stabilizing roles in his life.

It is further clear, however, that the child can and does easily identify and distinguish between defendant as his mother and Lori as his step-mother. Most significantly, he very naturally and comfortably refers to Lori by both her first name, and by "Mom", at his own interchangeable option, without any confusion on his part that defendant is his actual mother. There is no evidence in the child's dialogue or presentation that he is somehow being forced against his will to call his step-mother "Mom", or that his father and step-mother are coercing, programming or brainwashing him on what to call his step-mother, or to in any way think less of his mother or the importance of the mother/son

relationship. Rather, the evidence reflects that the child sometimes calls his step-mother "Mom", at his own option, and as a term of affection for his step-mother rather than replacement or disrespect of his mother. The interview further reflects that the child has a very close, sibling-like relationship with Lori's three children, who logically refer to Lori as "Mom" as well.

### Calling a Step-Parent "Mom" or "Dad" over Parent's Objection

While a child of divorced parents may have very few rights of self-determination, and little control over decisions made on his or her behalf, the court finds that one right the child does have is to decide whether or not to call a step-parent "Mom" or "Dad" when the step-parent is willing to be addressed as same. So long as a child is old enough and mature enough to distinguish between a parent and step-parent without confusion, and so long as a step-parent has no objection to a step-child calling her or him "Mom" or "Dad" on a voluntary basis as a term of affection, the child generally must have the right to make such decision in a manner most consistent with his or her own comfort level on this highly sensitive issue.

For certain, there may be some circumstances where a child is too young or immature to reasonably comprehend and distinguish between a parent and a step-parent. For example, if parents divorce while a child is still an infant or

toddler, and both parents are still actively involved in the child's life, it may well be inappropriate for any parent, step-parent or other individual to attempt to train or require the child to call a step-parent or any other third person "Mom" or "Dad". Such effort can potentially mislead and confuse a child of tender years as to who his or her parents actually are.

In this case, however, Daniel is in no way an infant or toddler. Rather, he is nearly eight years old. While he does have certain learning disabilities, he clearly knows and understands that defendant is his mother and Lori is his step-mother. The fact that he sometimes prefers to call his step-mother "Mom" does not change this reality in the slightest. While a child's preference in a domestic issue is not automatically binding on the family court<sup>6</sup>, the court finds that same is highly relevant on as emotional and foundational and issue as this one.

Theoretically, there may be many legitimate reasons why a child might sincerely prefer to call a step-parent "Mom" or "Dad", even while having a parentally active mother and father, and while fully knowing that that the step-parent is not his or her actual parent. For example, if a child lives in a

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<sup>6</sup> See Palermo v. Palermo, 164 N.J. Super 492, (Ch. Div., 1978), citing Callen v. Gill, 7 N.J. 312, 319 (1951). See also N.J.S.A. 9:2-4, which directs a court presiding over custody litigation to consider, among other factors, the preference of a child who is old enough to formulate and express same.



household where a parent and step-parent have other biological children together (i.e., the child's half-siblings), and these other children all call both adults in the household "Mom" and "Dad", a child may subjectively feel most comfortable addressing the step-parent in a similar manner, as a way of assimilating and "fitting in" privately and publicly with the blended family unit.

Further, a child may have a very close emotional relationship with a step-parent, and may genuinely wish to use the words "Mom" or "Dad" as a term of endearment and a verbal display of positive love and affection for that adult. This scenario can occur even when the child simultaneously has a very healthy and loving relationship with two biological parents, who the child always calls "Mom" and "Dad" and who are clearly the child's only mother and father. The fact that a child also calls a second person "Mom" or "Dad" does not lead to an automatic conclusion that there is any confusion on the child's part, or any objectively improper and realistic threat to the existing parent-child bond.

By way of analogy, many married adults call their mothers-in-law and fathers-in-law "Mom" and "Dad," solely out of affection, and without in any way intending to diminish the love and respect they may hold for their actual parents. Similarly, in cases where a child is raised by a grandparent, aunt, uncle or other third party caretaker over a lengthy period of time, it is not uncommon for the child to call the caretaker "Mom" or "Dad," even while fully knowing

that the caretaker is not his or her actual parent. Still further, in some same-sex relationships, a child may call two people “Mom” or “Dad”, as the case may be.

Reciprocally, however, there are many legitimate reasons why a child might *not* want to call a step-parent “Mom” or “Dad”. For example, a child may feel that his or her relationship with the step-parent is simply not strong or rooted enough yet to warrant a “Mom” or “Dad” designation. The child may not know the step-parent well enough to feel comfortable using a parental term as “Mom” or “Dad”, or may in fact know the step-parent very well, but have a negative and unsatisfactory relationship with such person. Still further, even if the child has a strong and positive relationship with a step-parent, he or she may nonetheless choose to reject “Mom” or “Dad” terminology in order to avoid the possibility of disappointing or upsetting the other parent.

Ultimately, the strength of a child’s relationship with his or her biological parents rests on far more than surface labels, or how a child personally wishes to address a step-parent or any other third person. All too often, titles and symbols become the basis for wholly unnecessary and disproportionate battles between otherwise reasonable people. This concept has been expressly recognized in other contexts by New Jersey’s family courts,

specifically in addressing applications for change of a child's last name. For example, in contested applications between separated or divorce parents, an objecting parent often argues that unless the child carries his or her exact last name, as opposed to the "other" parent's last name, the strength and quality of the child's relationship with the complaining parent will automatically and seriously suffer. See Emma v. Evans, 215 N.J. 197 (2013); Gubernat v. Deremer, 140 N.J. 120 (1995). In Gubernat, the New Jersey Supreme Court rejected this argument under the facts of the case, and recognized that there is often no scientific, circumstantial or other evidence of risk of harm to a child based upon choice of surname. Gubernat further found that there was no showing that using one parent's surname over another parent's surname automatically better advanced the psychological, emotional or developmental needs of a child. Id., at p. 147.

Gubernat also cautioned that "some courts improperly rely upon traditional presumptions which obscure a clear evaluation of what constitutes a child's best interests" Id., at 140. Against this backdrop, the Supreme Court noted that a willingness to provide for a child's needs as he/she grows and matures, rather than a name, is what defines a parent. Only a parent who provides for such needs will build a psychological relationship to the child on

the basis of the biological one, and will become his psychological parent in whose care the child can feel valued and wanted. Id. at 146-147.

Irrespective of names, parents can still continue to be loving and supportive parents to a child. A parent's devotion, support and commitment to a child is what ensures that the child will always have a bond with the parent. The love of the parent, and not the name of the parent, is the adhesive that binds parent and child and further, gives unique strength and durability to the natural loyalty that the parent holds for the child. Id., at p. 146-47. The Gubernat court further held that a child's best interests should not be confused with an adult's need for a symbol. See Gubernat, supra, 140 N.J. at 141.

Gubernat further recognized multiple reasons why a child may actually prefer to use last name over another, as part of the factors to consider on a name change application. These factors included (a) identification of a child as a member of a family unit;(b) potential anxiety, embarrassment, or discomfort a child might experience if he/she bears a different surname from a parent; (c) any preferences the child might express, assuming the child possesses sufficient maturity to express a relevant preference. These factors have been cited by subsequent courts as well. See Ronan v. Adley, 182 N.J. 103, 108

(2004); Staradumsky v. Romanowski, 300 N.J. Super 618, 620 (App. Div., 1997).<sup>7</sup>

Following Gubernat, the New Jersey Supreme Court recently revisited many of these concepts in the name-change case of Emma v. Evans, supra, 215 N.J. 197 (2013). Therein, the Court again recognized and reiterated that many factors must be considered in determining whether a proposed name change is in a child's best interests, including but not limited to "identification of the child with a particular family unit," "potential anxiety, embarrassment, or discomfort that may result from having a different surname from that of the custodial parent," "the child's preference if the child is mature enough to express a preference," and "whether the child has a strong relationship with any siblings with different names." Id. at 222-223.

These factors, which are relevant on the issue of a child's last name, are certainly also valid and relevant points in considering why a child might sincerely wish to call a step-parent "Mom" or "Dad", particularly in a family dynamic where all other children in the same exact household are addressing

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<sup>7</sup> In Staradumsky, the court expressly noted the importance of a child's desire to identify as a member of both family units. Id., at p. 621.

the child's step-parent in such fashion. While the issue of changing a child's name differs from the issue of how a child addresses a step-parent, much of the underlying logic of Gubernat and Emma, i.e., that a particular name or title does not by itself determine the strength of the parent-child relationship, is in fact relevant in this case. In other words, whether the child prefers to call his step-mother by her first name, or by "Mom", or both, such choice is one based on the child's personal comfort level, and cannot be automatically presumed to impair any aspect of the very strong relationship he continues to have with defendant as his one and only mother.

There is, however, another important legal point to consider. In a nation which prides itself in championing freedom of speech and expression, the concept of either (a) forcing a child to call a step-parent "Mom" or Dad", or (b) prohibiting a child from doing so, raises significant issues and concerns regarding the child's own constitutional rights to freedom of speech and expression, and protection of such rights in a blended family.

The First Amendment of the United States Constitution states that Congress shall make no law abridging freedom of speech. U.S. Const. Amend. I. The Fourteenth Amendment requires states to recognize this right as a privilege to all citizens of the United States as a matter of due process and equal protection.

U.S. Const. amend. XIV. In in re Gault, 378 U.S. 1 (1966), the U.S. Supreme Court recognized that minors have distinct rights under the Constitution, stating “neither the Fourteenth Amendment nor the Bill of Rights is for adults alone.” Id., at 13. In Tinker v. Des Moines Indep. Cmty. School District, 393 U.S. 503, 511 (1969), Justice Fortas wrote that children are “possessed of fundamental rights which the state must respect.”<sup>8</sup> In Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976). Justice Blackmun wrote the following for the majority: . . . “( C )onstitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess Constitutional rights.” Id., at 74.

The U.S. Supreme Court has previously protected children from being forced to speak words against their own personal beliefs. See West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943) (minors would not be compelled to forsake their religious beliefs by being forced to recite the Pledge of Allegiance). The Supreme Court has further held that a court may

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<sup>8</sup> In Tinker, the Supreme Court upheld a minor’s right to freedom of speech in a school setting stating that minors in school as well as out of school are persons with rights under the Constitution, who do not “shed their Constitutional rights to freedom of speech or expression at the schoolhouse gate.” Id., at 506.

protect children's interests and rights under *parens patriae* jurisdiction, even by protecting the child from some acts and compulsory direction of the parents themselves. As stated in Prince v. Massachusetts, 321 U.S. 158 (1944):

. . . The family itself is not beyond regulation in the public interest, as against a claim of religious liberty. . . and neither rights of religion nor rights of parenthood are beyond limitation. Acting to guard the general interest in youth's well being, the state as *parens patriae* may restrict the parents control by requiring school attendance, regulating or prohibiting the child's labor, and in many other ways. Its authority is not nullified merely because the parent grounds his claim to control the child's course of conduct on religion or conscience. Id.

In Prince, the Supreme Court applied the doctrine of *parens patriae* to protect a child from a parent's decision to require a child to distribute religious pamphlets, in contravention of child labor laws. In holding that parental discretion did not prohibit the Court from acting to protect the rights of the child, the Court held that "the state's authority over children's activities is broader than over like actions of adults." Id.

It is true that a child does not have the unrestricted freedom to say or do anything he or she wants. For example, it is well-settled that the government may prohibit a child from engaging in inappropriate public speech and expression such as publicly obscene or offensively lewd and indecent statements. See Bethel School District No. 403 v. Fraser, 478 U.S. 675, 685 (1986) Parents of children who engage in such speech have a right, if not a



duty, to control and appropriately discipline such behavior by a child in his or her care.

A child calling a step-parent “Mom” or “Dad”, however, is neither obscene or lewd or indecent speech reasonably warranting punishment or discipline. To the contrary, a child’s preference on whether or not to call a step-parent “Mom” or “Dad” is generally a decision rooted deeply in the innermost emotions of a child of divorce, especially when the child’s parents cannot even agree between themselves on how to provide uniform guidance on the issue.

Against the backdrop of the above-referenced principles and policies, the court finds in this case that the parties’ child, Daniel (a) has a right of free speech and expression on whether to call his step-mother “Lori” or “Mom”, and (b) understands exactly who is his mother and who is his step-mother, irrespective of whichever way he chooses to address his step-mother at any particular time. Accordingly, if the child wishes to continue calling his step-mother “Mom,” this court finds that such speech and expression should not be forcibly suppressed through any type of judicial injunction. Similarly, if the child does not wish to call the step-mother “Mom”, then neither the father or the step-mother should in any way force the child to do so. The child’s preference is entitled to considerable respect on this point, free from either

overt force or subtle pressure by any parent or step-parent or the court in this matter.

During the course of the past generation, our country has experienced significant changes in the form and function of the traditional family unit. Emma v. Evans, supra, 215 N.J. at 219-220. While divorce may be very commonplace in present-day American life, one cannot ignore the reality that with marital dissolution often comes stress, anxiety, and domestic instability for young children caught in the crossfire of two battling adults. In the present case, Daniel is an only child of divorce, and has been forced to endure the trauma of his parents' separation and ongoing legal battles thereafter. In doing so, he must bear the emotional scars of a fractured household, while simultaneously trying to figure out for himself how to best fit into newly formed family units. At this challenging point in his growth and development, he certainly does not need his parents, or step-parent, or the court, hoisting further unnecessary burdens upon his fragile shoulders by micromanaging his words and thoughts, or commanding him how to address his step-parent in order to best please his mother or father.

The court finds from all of the evidence in this case, including but not limited to the *in camera* child interview and testimony from trial witnesses,

that Daniel is very comfortable calling his step-mother either by her first name, or by "Mom", interchangeably without any disrespect whatsoever to defendant and without any diminishment of his own love and affection for his true mother. Accordingly, the court directs that in the child's best interests, Daniel shall be permitted to address his step-mother by either of these names or any logical derivatives of same, as he feels comfortable doing so. Further, neither parent or step-parent will compel, prohibit, or pressure the child one way or the other on this point, or attempt in any way to force a contrary result against the child's own independent will.

### THE ROLE OF A STEP-PARENT

No matter how a child chooses to address a step-parent, there remains a fundamental rooted difference between an active parent and step-parent which goes far beyond a name. In this case, it is critical for both parents and step-parent to recognize, appreciate and honor the very important but very different roles of a parent and a step-parent. A mutual understanding of, and respect for, these respective roles is important for the child's happiness and well-being in this family dynamic.

First and foremost, absent exceptional and extraordinary circumstances, a step-parent generally does not and cannot stand as a legal equal to an

active parent, and must not presume or act otherwise regardless of whether the child calls such step-parent "Mom" or "Dad." One does not automatically acquire parental rights or obligations toward a child merely by marrying the child's father or mother. See Klipstein v. Zalewski, 230 N.J. Super 567, 571 (Ch. Div., 1988).<sup>9</sup>

The fact that a step-parent is not legally equal to a parent, however, does not mean that the step-parent must be considered irrelevant and immaterial to the child's continued happiness, well-being, and interests. Such an all-or-nothing approach ignores the undeniable reality that in a blended family, a strong step-parent relationship can be highly relevant and material. In the realm of domestic relations, we live in an era of "dynamic social change." See Gubernat v. Deremer, 140 N.J. 120, 137 (1995). Pursuant to N.J.R.E. 201 (b), the court thus takes judicial notice that, even when a child already has two involved and clearly identified biological parents, an active step-mother or

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<sup>9</sup> The court rendered its decision and order on June 30, 2014. Subsequent to same, the Appellate court rendered a published opinion in the unrelated case of K.A.F. v. D.L.M., 437 N.J. Super. 123 (App. Div. 2014), which addressed the exceptional circumstance of a step-parent who has allegedly become the psychological parent of a child, and who is separating from or divorcing the biological parent, and whether such step-parent had standing to seek custody of, or parenting time with, the child upon divorcing the biological parent. The facts and legal issues in this case differ significantly from K.A.F., as (a) there is no divorce between a step-parent and parent, and (b) there is no claim by a step-parent of being the child's psychological parent, or any evidence reasonably supporting such a claim.

step-father may play a highly positive, healthy and significant role in a child's life. It is illogical and unrealistic to treat an active step-parent as non-existent, or the legal equivalent of a potted plant on the sidelines of a child's world. Common sense warrants recognition of a legitimate role for an active step-parent in a child's life, not as an equal to a parent, but rather, in an assistive capacity to the parent who is his or her spouse or domestic partner, when such parent desires and welcomes such assistance.

In various contexts, there has been a growing legal recognition of the potential importance of a step-parent/step-child relationship in a child's life. For example, the New Jersey Legislature has recently enacted the New Jersey Paid Family Leave Act, N.J.S.A. 34:11B-1, et seq., which permits an employee to take paid time off from work to care for a sick step-parent or step-child. See N.J.S.A. 34:11B-3(a) and 3(h). Further, when applying through the federal government for college tuition assistance under 20 U.S.C. 1091, the Free Application for Federal Student Aid (FAFSA) form generally considers the income of a student's step-parent in determining financial eligibility, if the step-parent is part of the student's household. In Miller v. Miller 97 N.J. 154, 183 (1984), the New Jersey Supreme Court held that a step-parent may be required to pay child support in specific cases. In Christensen v. Christensen, 376 N.J.

Super 20 (App. Div., 2005), the Appellate Division held that in certain circumstances, both a natural parent and a step-parent may each have to pay child support for a child. Under New Jersey's child abuse and neglect laws, N.J.SA 30:4C-2 provides that a step-parent may be charged with neglect of a step-child. In Palermo v. Palermo, 164 N.J. Super. 492, 497 (App. Div. 1978), the court went so far as to hold that that custody of a child may even be awarded to a step-parent under certain special circumstances.<sup>10</sup>

In the Supreme Court case of V.C. v. M.J.B., 163 N.J. 200 (2000), Justice Long acknowledged the importance of step-family and other blended, non-traditional family relationships:

*... We should not be misled into thinking that any particular model of family life is the only one that embodies "family values." Those qualities of family life on which society places a premium -- its stability, the love and affection shared by its members, their focus on each other, the emotional and physical care and nurturance that parents provide their offspring, the creation of a safe harbor for all involved, the wellspring of support family life provides its members, the ideal of absolute fealty in good and bad times that infuses the familial relationship (all of which justify isolation from outside intrusion) -- are merely characteristics of family life that, except for its communal aspect, are unrelated to the particular form a family takes.*

*Those attributes may be found in biological families, step-families, blended families, single parent families, foster families, families created by modern reproductive technology, and in families made up of*

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<sup>10</sup> Further, and as noted in Note 9, supra, subsequent to conclusion of this case, the Appellate court rendered a published opinion in the unrelated family court case of K.A.F. v. D.L.M., 437 N.J. Super. 123 (App. Div. 2014), which addresses the standing of a step-parent to seek parenting time with a step-child in exceptional circumstances.

*unmarried persons. What is required is the creation of "an intimate familial relationship that is stable, enduring, substantial and mutually supportive, . . . one that is cemented by strong emotional bonds and provides deep and pervasive emotional security." (Emphasis added) Id. at 232, quoting Dunphy v. Gregor, 136 N.J. 99, 115 (1994); see also, Watkins v. Nelson, 163 N.J. 235 (2000); Brennan v. Orban, 145 N.J. 282, 301 (1996); Crowe v. De Gioia, 102 N.J. 50, 56 (1986).*

Against the backdrop of these legal developments, and pursuant to N.J.R.E. 201 (b), this court takes judicial notice<sup>11</sup> that even when there are two actively involved parents, an active step-parent may still play a very productive and significant role in promoting a child's best interests, without impairing or intruding on basic parental authority.

When a step-parent spends a significant degree of time living under the same roof as a step-child, it is predictable and likely that the step-parent may not only be interacting with the child on a regular basis, but will at times even be supervising the child as an adult family member. This supervision may occur both in and out of the home itself, and in or out of the presence of the step-parent's spouse (the child's biological parent), such as when the parent is working to financially support the child and other family members, or otherwise tending to other necessary obligations of everyday life.

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<sup>11</sup> Pursuant to N.J.R.E. 201(b), the court may take judicial notice of propositions of generalized knowledge which are universally known and cannot reasonably be the subject of dispute.

The likelihood of a step-parent taking on a supervisory role from time to time generally increases when, as in this case, the step-parent is either married to, or cohabiting with, the child's primary residential custodian in a long-term domestic relationship. Such an arrangement generally means that the step-parent actually lives with the step-child a majority of the time. However, even when a step-parent is partnered with a non-custodial but active parent, there may still be a significant likelihood that from time to time, the step-parent will frequently and naturally be providing adult supervision over the child as well.

When a step-parent spends significant time living under the same roof as a step-child, he or she is in a natural and special position to assist a spouse in caring for the child and meeting the child's needs. This is especially true when, as in the present case, the step-parent has education, experience, and positive skills in the areas of child education and health. For example, on an educational basis, an involved step-parent may help a child by assisting with homework and test preparation, as well as helping oversee the child's development of healthy, consistent disciplined study habits. Medically, a step-parent may help transport a child to a doctor or dentist when necessary, and with parental consent may also administer medicine when a parent is otherwise unavailable to do so. A step-parent can also help care for a sick child, and keep a vigilant



observational lookout for any changes in condition. Further, a step-parent can help promote sound nutrition for a child by assisting in the preparation of balanced family meals, and can also encourage a child's exercise and physical activity by assisting and encouraging the child's participation in organized sports and social activities selected and approved by the child's parents.

As a member of the child's household, a step-parent's observational vantage point can potentially be very valuable on educational issues. For example, if a child is having academic, social, or behavioral issues in school, or is feeling depressed or isolated because of a school-related situation, a step-parent may be in a valuable position to help observe and report any noteworthy carry-over behaviors by the child from school to home. This type of information can be vital to parents, school personnel, and other professionals who need to address and trouble-shoot child-related challenges as they arise.

An active step-parent is also often in a special position to potentially provide emotional support to a child. Such support is not necessarily in place of, but *in addition to*, any and all emotional supports which biological parents provide to a child as well. It is clear that in many cases, a step-child can develop a very strong, loving, and healthy emotional bond with an active step-parent. Such a bond may be special in its own right, and thus worthy of respect.

It is not only possible, but generally desirable for a child to have important, loving relationships with both parents and step-parents at the same time. There is no basis to discourage same, as one can never have too many positive relationships in life. So long as a child understands who his or her true parents actually are, and so long as an active step-parent does not attempt to obstruct or impair the role or authority of the child's actual mother or father, there can and should be a legitimate and worthy place for a step-parent's positive participation, care and love in a child's life.

Certainly, there are cases where a strong relationship between a step-parent and step-child simply does not exist, such as (a) when a step-parent does not wish to be actively involved with the child, or (b) when a step-parent and step-child have major personality clashes and do not get along with each other. Similarly, if a step-parent oversteps his or her bounds and improperly disrespects either parent's authority over the child, then that step-parent's involvement in the child's life may in fact cause more harm than good as a source of unnecessary disruption and family contentiousness. However, the fact that there will always be some poor and dysfunctional step-relationships in this world does not override the reality that there will also be many excellent, highly positive step-relationships as well. In cases where strong step-relationships do exist, it is logical to encourage such relationships and to

permit step-parents to reasonably assist their partners in exercising child rearing responsibilities.<sup>12</sup>

In this case, the court considers the role of Lori, not as a parent, but as a caring and loving step-parent. She has a strong and healthy relationship with Daniel's father, and both are an actively involved team in Daniel's life as well as in the lives of Lori's three biological children. As Daniel's step-mother, Lori does not have independent authority to make major decisions for this child on her own. At plaintiff's request, however, Lori can assist him in his duties as a parent. For example, she may accompany him to the child's medical appointments or educational appointments, such as parent teacher conferences. Further, if there are emergent or compelling circumstances where plaintiff cannot himself personally attend, then the step-parent may appear on plaintiff's behalf from time to time as the need arises, although such arrangement generally should be more the exception than the rule.

In reaching these conclusions, the court notes that while the issue may appear on its face to involve the rights of a parent vs. the rights of a step-parent, in actuality the issue more concerns the competing rights of the parents themselves. Indeed, it is the plaintiff, in his role as a father and a court-

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<sup>12</sup> This conclusion is applicable in cases where a parent remains living with a step-parent in an intact family unit, and where that parent wishes for the step-parent to assist him or her in child-related responsibilities.

ordered joint legal custodian, who naturally wishes to involve rather than exclude Lori as his household partner by having her assist him in his child-rearing responsibilities. This does not in any way mean that in doing so, the step-parent somehow automatically becomes a “third” parent, or a psychological parent, or that she has the right to substitute her judgment, authority, and responsibility for that of either parent. Nor does this arrangement mean that defendant, as the child’s mother, is somehow forced to “co-parent” with the step-parent instead of the parent. Rather, the court’s decision stands in recognition that there is a valid and appropriate role for Lori, as an active step-parent, to serve in the limited but significant capacity of helping her partner carry out the heavy responsibility of parenting a child.

It is noteworthy that Lori, formerly an academic tutor and presently a nursing student, has experience in both childhood education and health-related issues which can be beneficial to Daniel on an as-needed basis. With this background, Lori can potentially offer valuable observational information for consideration by the child’s parents, teachers, and health care providers. Since Daniel has certain educational and health-related challenges, it is logical for all parents and step-parents in his daily life to share their observations of the child's home behavior and other relevant information with each other, so that

everybody is hopefully on the same page in recognizing and addressing the child's ongoing educational and health-related needs.

If plaintiff wishes for Lori to attend school meetings or medical appointments with him, or occasionally on his behalf, she may attend for the child's sake. However the step-mother's right to attend is specifically intertwined with her ongoing, concurrent obligation to at all times honor and respect the defendant's role as the child's mother, and to avoid in any way attempting to override or obstruct the decision-making authority of either of the children's two parents as joint legal custodians. If such obstruction occurs in any case, an aggrieved parent may make further application to the court for relief.

When parents and step-parents simultaneously attend a child-related event, there is an ongoing duty of all adults to mutually respect each other's roles and publicly treat each other with courtesy and dignity at all times. So long as parent and step-parent accept and appreciate each other's important but different roles in the child's life, effective co-existence can be accomplished. Joint attendance at a child's doctor's appointment, a parent-teacher conference, a school play, a Little League game, or any other forum is not an opportunity for parents and step-parents to yell and scream at each

other, or to settle old scores, or to air dirty laundry, or to publicly embarrass each other and the child in the process. If either a parent or step-parent proves too undisciplined and lacking in self-control and self-respect to conduct oneself appropriately in a child's best interests, then a court may take further appropriate action upon application.

### CONCLUSION

In this case, there is no compelling evidence of any kind that the step-mother, Lori has intentionally or unintentionally intruded upon defendant's role as the child's mother, or has overstepped her bounds as the child's step-mother. Moreover, there is no evidence that Lori has any type of hostility or aggressiveness toward defendant. To the contrary, no witness, including defendant herself, has offered a single instance where Lori acted inappropriately or even impolitely towards her, or in any way disrespected defendant's role as the child's mother.

The court further finds that what the parties' child, Daniel, truly needs and deserves, more than anything else, is for his parents to stop fighting, and to hereinafter attempt to cooperate more productively with each other. While the child's mother, father, and step-mother may each genuinely want what is "best" for Daniel, they must all recognize and accept the reality that family

court litigation can itself potentially wreak havoc with a child's emotional health and well-being. See Mackowski v. Mackowski, 317 N.J. Super 8, 14 (App. Div. 1998).

As a year of courtroom battle between plaintiff and defendant finally draws to a close, the time is ripe for all adults involved in this matter to seriously consider the reality that through mutual respect, cooperation, flexibility, compromise and acceptance, they can all jointly promote the child's best interests by introducing peace and tranquility into his young life.