

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

SCOT A. FOWLER	)	ED103269
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
v.	)	2101FC -02864-03
	)	
MELISSA MURPHY FOWLER,	)	Honorable Thomas J. Frawley
	)	
Appellant.	)	FILED: September 6, 2016

Melissa Murphy Fowler (Mother) appeals the judgment of the trial court granting Scot A. Fowler's (Father) action for modification of child support.

**AFFIRMED IN PART AND REVERSED AND REMANDED IN PART.**

Division Four Holds: The trial court (1) did not err in awarding Father unsupervised visitation, because the terms of Section 452.400.2(3) did not apply under the circumstances; (2) did not err in awarding Father sole legal custody, because Father demonstrated a substantial and continuing change in circumstances; (3) did not err by relying on stale evidence in its judgment; and (4) did not abuse its discretion in ordering Mother to pay part of Father's attorney's fees. However, the trial court did err in (1) awarding both parents the right to claim the minor child as an exemption for federal and state income tax purposes in alternating years without making the required findings that the presumed child support amount was unjust and inappropriate, and (2) failing to attach its Form 14 or to fully articulate in the judgment its basis for its presumed child support amount; and thus we remand for the trial court to recalculate the child support amount.

Opinion by: Gary M. Gaertner, Jr., J.  
James M. Dowd, P.J. and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Francis J. Murphy III  
Attorneys for Respondent: Christopher Karlen

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.  
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND  
SHOULD NOT BE QUOTED OR CITED.**