In the

CIRCUIT COURT

of St. Louis County, Missouri

For File Stamp Only

FILED

AUG 01 2023

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

Matthew M. Miller
Plaintiff(s)

vs.

Susan Miller
Defendant(s)

8/1/23
Date

13SL-DR06958-02
Case Number

32
Division

Petitioner's Motion to dismiss motion for temporary order

See attached

ARLETUS MUSKIN
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES APRIL 5, 2026
ST. LOUIS COUNTY
COMMISSION #22087177

Subscribed and sworn to before me this
day of August, 2023

Notary Public

SO ORDERED

Judge

ENTERED: _____
(Date)

Attorney Bar No.

Address

Phone No. Fax No.

Attorney Bar No.

Address

Phone No. Fax No.

CCOPR47-WS Rev. 02/14

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Comes now Petitioner in the above styled cause and respectfully moves this court to dismiss Respondent's motion for temporary order. Petitioner states to the court as follows:

1. Respondent's motion misuses the terms custody and visitation. (Morgan v Morgan, 2016)
    1. On Feb 1, 2019, the court entered an order granting sole legal and physical custody to Petitioner.
    2. On Nov 12, 2019, the Eastern District Court of Appeals affirmed the above referenced judgment.
    3. On Feb 9, 2023, The court entered a revised visitation schedule
    4. The court has entered no judgment modifying the terms of custody outlined in the 2019 modification judgment and affirmed by the Eastern District Court of appeals
2. On Feb 9, 2023, Respondent's motion seeking temporary custody was denied.
    A. Respondent has added an additional page to the above referenced motion, containing terms that were not part of the original order.
    B. That falsified document is now presented to this court as evidence
    C. That same falsified document was presented to Affton School District.

	D. This discrepancy has been resolved with the school district

3. Petitioner now resides at 9344 Fairhurst Dr. Apt A, Saint louis MO, 63123, which is located inside the Affton School District.

4. On Dec 26, 2022, Respondent falsely reported abuse as a means of attempting to modify custody
    1. No disposition has been reached in the above referenced criminal case
    2. Due to the temporary nature of housing arrangements, Maya and Elena still qualify for protection under the Mckinney-Vento Act

5. Registration has been completed in the Affton School District for the 2023-24 School year

6. Respondent has unilaterally authorized, and paid the deposit for, a trip to New York for Maya with her chorus class at Affton High School
    A. Maya was told that the deposit for the trip was a gift for her birthday
    B. Maya is excited to go with her class on this trip
    3. At the same time as authorizing the trip for Maya, Respondent seeks to change the school district, which would exclude Maya from being able to go

7. Neither child wishes to change schools

1. Elena has a diagnosis of selective Mutism and has been granted a 504 plan with Affton. She has worked hard to build relationships with school staff and to build friendships
2. Maya has a diagnosis of Autism and struggles to build relationships in new social settings. She has an IEP plan with Affton.
3. Changing schools would be detrimental to their education and to their social relationships, and is therefore not in the best interests of the minor children.

Wherefore, Petitioner prays that the court dismiss or deny Respondent's motion for temporary order, and for any such other and further relief as the court deems just and proper to remedy the fraud committed therein.

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4:30

Online Registration

Household of Matthew Miller

Household Parents
Submitted Last Updated: 07/31/23

Household Addresses
Submitted Last Updated: 07/31/23

Student Information
Submitted Last Updated: 07/31/23

Emergency Contacts
Submitted Last Updated: 07/31/23

Non-resident Parents
Submitted Last Updated: 07/31/23

Elena Miller

Title 1
Submitted Last Updated: 07/31/23

Housing Questionnaire
Submitted Last Updated: 07/31/23

Migrant

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4:30

Online Registration

Submitted Last Updated: 07/31/23

Elena Miller

Title 1

Submitted Last Updated: 07/31/23

Housing Questionnaire

Submitted Last Updated: 07/31/23

Migrant

Submitted Last Updated: 07/31/23

Medical/Emergency

Submitted Last Updated: 07/31/23

Acceptable Usage Policy

Submitted Last Updated: 07/31/23

Chromebook

Submitted Last Updated: 07/31/23

6 - 12th Grade Transportation

Submitted Last Updated: 07/31/23

Maya Miller

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4:3

Online Registration

6 - 12th Grade Transportation

Submitted Last Updated: 07/31/23

Maya Miller

Housing Questionnaire

Submitted Last Updated: 07/31/23

Migrant

Submitted Last Updated: 07/31/23

Medical/Emergency

Submitted Last Updated: 07/31/23

Acceptable Usage Policy

Submitted Last Updated: 07/31/23

Chromebook

Submitted Last Updated: 07/31/23

6 - 12th Grade Transportation

Submitted Last Updated: 07/31/23

Activities/Athletics

Submitted Last Updated: 07/31/23

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Susan Avila
Sent May 25, 2023, 2:10 PM

To:

Matthew Miller
(Viewed Jun 15, 2023, 11:52 PM)
Mary Gereaux
(Viewed May 25, 2023, 2:46 PM)
Nicolette Klapp

I am open to changing the arrangements for the summer. I think that as long as Maya is in summer school, we continue to have it the way it is currently. But once summer school is over, I would like to have them with us all of the time, so they can spend more time with us and their baby sister Gabriela. Or maybe alternate weeks between us. It is important for the kids to have time with both families over the summer. School There was an IEP created for Maya at the high school. There was a meeting held on May 1, 2023, at 1:00 pm that I was not in attendance. I did not learn of the meeting until after the meeting had already happened. This was not on the Our Family Wizard. No communication to me in regard to this date for the meeting. Matt did send me the forms to fill out for it back in February. I had no contact from the school either in regard to this until after it happened.

Summer School That is correct I have received information regarding summer school from the Affton School district.

Medical Issues MyChart In regard to Maya and Elena's MyCharts. I cannot provide Mary or Matt with access to it without giving them my login information. MyChart gives you full access to the child's chart between the ages of zero and eleven. Once the child turns twelve you can obtain limited access to their chart with the child's written consent. Once they are twelve, you can no longer access their chart, because MyChart removes them off yours and you can't see theirs anymore. Unless you complete a request by proxy. You will have to get a form that has to be completely filled out and only the child that you are requesting access too can sign the form giving MyChart permission to share their medical chart with you. It also has to be signed by one of their doctors. I currently have limited access to Maya's MyChart, because she is between the ages of twelve and seventeen. Once she turns seventeen, I won't have it anymore. I used to have access to Elena's prior to her turning twelve, but the day before she turned twelve it was taken off my MyChart. I have to get Elena's signed permission to submit to MyChart. As I did with Maya. That being said the only ones that can give you permission are them (Maya and Elena). I did express this back in Febuary.

Re: My chart Sent SA Susan Avila Sent Feb 22, 2023, 9:06 PM To: Matthew Miller (Viewed Feb 23, 2023, 10:33 AM) Mary Gereaux (Viewed Feb 22, 2023, 9:59 PM) Nicolette Klapp

I can't grant access to my chart for the girls. Only the girls can. Once they turn 12 they have the right to decide who has access to their charts. This is what I was told by the people who run MyChart. There is an application that has to be filled out.

From: Mary Gereaux on Feb 22, 2023, 7:48 PM To: Matthew Miller, Susan Avila, Nicolette Klapp Subject: My chart

Susan, since you set up the access into MyChart for the girls, no one else has access. Will you please grant access to Matt and to me for both of the girls. Thanks you Doctor Appointments In regard to Elena's most recent visit at Dr. Spewak's office. I did not know that she had an appointment until after she told me that she had gone to the doctor at noon. I had called her to see how she was feeling, because I saw on Tyler SIS (School Information App) that she did not go to school that day. I would have had no way of knowing that she had an appointment because Southwest Pediatrics where Dr. Spewak is does not use Epic or MyChart. I only found out about the appointment from her. Then I received a message on Our Family Wizard from Mary at 4:51 pm letting me know about the appointment.

DBT Appointments Maya had a DBT appointment on April 6th , 2023 at 4:30 pm at St. Louis Behavorial Medicine Institue. I know that they have more than one location. OFW did not tell me which location until I asked Mary for it. I wasn't aware as to who the appointment was with. I made sure when we were at that appointment and that Maya was scheduled for another one on April 22nd at 10:00 am (virtual). I forgot to put it on OFW. We set up her next appointment for May 6th at 10:00 am (virtual). That date was logged on OFW. We set up Maya's next appointment that is this upcoming Friday May 26th, 2023, at 2:15 pm (in person).

Re: Maya Inbox MG Mary Gereaux Sent Mar 23, 2023, 6:09 PM To: Matthew Miller (Viewed Apr 13, 2023, 5:37 PM) Susan Avila (Viewed Mar 23, 2023, 6:17 PM)

16216 Baxter , Chesterfield. Suite 225 From: Susan Avila on Mar 23, 2023, 5:34 PM To: Matthew Miller, Mary Gereaux Subject: Re: Maya Which location? From: Mary Gereaux on Mar 23, 2023, 5:25 PM To: Matthew Miller, Susan Avila Subject: Maya Maya has an appointment at St Louis Behavioral Health on Thursday April 6 at 4:30. I could not find a different time for her. If you need help getting her there, let me know. Counseling Appointments Mary had asked me to take the kids to one of their counseling appointments, but their office would not let me be present. Stating they didn't have any paperwork saying I could be. I am fully supportive of the children attending their therapy sessions. I think that it is good for them to have a neutral person to talk to.

Journal Entry Susan Avila Feb 10, 2023 Created: Feb 10, 2023, 5:17 PM MM MG Details As I texted to let you know I did take Elena to the appointment, but they would not let me be present. They said that they didn't have any paperwork and she wanted to run things by her supervisor before proceeding with the session. Her supervisor was not there to speak with. They did say with the paperwork confusion that we would not be charged for the appointment. I believe some of my frustration is that the kids are seeing these counselors and I haven't been told anything about who they are seeing or when they started seeing them even in the beginning.

From: Mary Gereaux on May 19, 2023, 10:16 PM
To: Matthew Miller, Susan Avila, Nicolette Klapp
Subject: Re: Appointments and Summer

I really dont know what appointments Susan does not know about. Their counseling appointments at Provident have been on the OFW calendar (when I enter them they are journal entries because that is the only way I can enter them.). Susan has taken over Mayas appointments at St Louis Behavioral medicine and she has NOT shared any of those past or future dates. On Wednesday this past week, Elena was sick and I did make an appointment her to be seen, and I did not have time to enter it int OFW, but I am sure Susan knew about it because she is the only one with access into the girls MyChart account. (I have request and been denied by Susan this access). I did message Susan as soon as we got home and I had the girls settled (yes, I know that Susan had already contacted Elena to ask what was going on).

From: Nicolette Klapp on May 18, 2023, 8:05 PM
To: Matthew Miller, Susan Avila, Mary Gereaux
Subject: Appointments and Summer

All: I have received an allegation that appointments of the children (both medical and education) are not being shared with Mother until after the appointment has occurred. If this is happening, please stop it immediately. All appointments of the children shall be shared as soon as they are scheduled and if you can, they need to be put on the calendar on OFW. If anyone has questions, please let me know. Also, are the children enrolled in summer school this summer? If not, have there been any discussions about a summer schedule? Please let me know everyone's thoughts. Thanks. Nikki

Reply
Reply All

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Re: NY trip and summer plans Inbox

Susan Avila
Sent Jun 23, 2023, 11:36 AM

To: **Matthew Miller** (Viewed Jun 23, 2023, 1:44 PM)
Mary Gereaux (Viewed Jun 23, 2023, 12:33 PM)
Nicolette Klapp

I just wanted everyone to be aware that I did put down the deposit for Maya to go to New York next year. I also have spoken to her about the importance of listening and not being defiant when something is requested of her. The parental controls that were on Maya's phone were set by Matt. I do not have the passcode either. A majority of what I see her do on it is play rhythm games.

From: Mary Gereaux on Jun 20, 2023, 11:35 PM
To: Matthew Miller, Susan Avila
Subject: Re: NY trip and summer plans

Maya has certainly brought up the subject of the NY trip. I am conflicted on this topic. Yes, she has done a wonderful job in her summer school class. I am still very unhappy with how much time she spends on her phone. When Bob or I ask her to put it away for a while, she becomes belligerent and defiant. I asked her to check her screen time to let her see how much time is on her phone, she has turned off that feature. It is a great concern of mine that you gave her a phone, but you set ZERO parental controls on it and she will not give her passcode to anyone. We have NO IDEA what she is really doing on that device. We know Maya does not tell the whole truth much of the time. I don't feel this behavior is something to be rewarded with a trip.

From: Susan Avila on Jun 20, 2023, 12:12 PM
To: Mary Gereaux
Subject: Re: NY trip and summer plans

I would imagine might be pestering you about the fact that the New York trip deposit is due like in one or two days. I think that it will be good if she attends this. She is fully aware that she has to come up with money for this. I told her for her birthday and Christmas put any money she receives towards it. We also came up with a list at the house of things she can do to get a certain amount of money. I plan on giving her for her birthday that the deposit has been put towards it. I am also really happy with her grades in summer school. She has been working really hard and I am very proud of all that she has accomplished.

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rom: Mary Gereaux on May 24, 2023, 1:01 PM
To: Matthew Miller, Susan Avila
Subject: NY trip and summer plans

Susan,
Maya said she did speak to you last weekend about the opportunity to go to New York with the chorale class. I have also spoken to her about it. I told her that her grades and her behavior would definitely influence my recommendation on whether or not she should be able to go. In that discussion, she did admit that she had been intentionally skipping her English class.

Also for the summer, Bob and I will be out if town June 24-July 2 and I was wondering if you can keep the girls during that time?
Then we would like to take the girls July10-14 for a trip. I know Maya leaves for summer camp on the 16 so we would need to get a lit if her stuff together for that before the trip.
let me know, thanks, Mary

Reply Reply All

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