**IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

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| SANDRA LYNN NANCE,<br><br>Appellant,<br><br>v.<br><br>CHRISTOPHER MICHAEL FERRARO,<br><br>Respondents. | Supreme Court No.: 72454<br>District Case No.: D426817<br><br>**RESPONDENT'S RESPONSE TO APPELLANT'S MOTION FOR STAY PENDING APPEAL OF JANUARY 27, 2017 ORDER GRANTING RELOCATION** |

Respondent Christopher Michael Ferraro, by and through his counsel of record, Shannon R. Wilson of Hutchison & Steffen, PLLC, responds to Appellant Sandra Lynn Nance's Motion for Stay Pending Appeal of the January 27, 2017 Order Granting Relocation. Respondent requests the Court enter an Order DENYING the motion for a stay and for such other relief as the Court deems fair and just. This Response is based on the following points and authorities and the papers and pleadings on file herein.

DATED this 14th day of August, 2017.

HUTCHISON & STEFFEN, PLLC

By: _____
Michael K. Wall (2098)
Shannon R. Wilson (9933)
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145

Attorneys for *Respondent Christopher Ferraro*





17-901631

## POINTS & AUTHORITIES

## 1. FACTS

This is a post-divorce custody matter involving the relocation of a minor child, Evan Ferraro, who is nearly nine (9) years old. He will enter the third grade this fall. A three day trial was held in June 2016. The district court issued an order in January 2017, granting Respondent Christopher Ferraro's ("Chris") motion to modify custody to relocate Evan to New York. AA1342-79. The district court ordered that Appellant Sandra Nance ("Sandra") would have the child (among other times) during the summers, commencing one week after school let out, and the child would relocate at the end of the summer to begin the 2017-2018 school year in New York. AA1377. Sandra has had Evan all summer, save for one week in July, which Chris traded for his one week in June so that Evan could attend a hockey camp with his father, uncle, and Evan's New York friends. Ex. A, ¶9; *see also*, AA1347, ¶5. The New York school has orientation on August 28, 2017; school starts on September 5, 2017. Ex. A, ¶4.

Sandra filed a fast track appeal of the decision; the briefing was complete on May 30, 2017. On June 8, 2017, Sandra filed a motion to stay in the district court, which was opposed by Chris. On July 27, 2017, the district court issued a minute order[1] *denying* the motion to stay stating, *inter alia*:

> The COURT FURTHER FINDS a stay of the January 27, 2017 Order will impede the best interests of the child as stated in the January 27,

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[1] The Minute Order directed Respondent's counsel to prepare the formal order, which was done, and it is presently at the district court for review.

> 2017 Order. The Court FURTHER FINDS in the event Plaintiff's appeal is successful, the child will not have been harmed by the relocation.

Sandra's statement of facts misrepresents the timeshare set forth in the last custodial order entered November 30, 2012, which was stipulated and the parties consistently followed. Ex. A, ¶2. Pursuant to that order, the parties shared joint physical custody of Evan, with Chris having Evan 10 consecutive days every month, except for June, July, and August when Chris had Evan for 14 days each month, plus holidays.[2] AA181-98, ¶¶182, 185, 198. Therefore, Sandra's statement that Chris was only "having visitation at times that Evan was not in school," is erroneous and ignores the substantial time and resources that Chris expended to continue his timeshare with Evan in Nevada once Evan started school. *See e.g.*, AA1347, ¶6.

## 2. LAW & ARGUMENT

NRAP 8(a)(1) provides that a party who desires to seek a stay pending appeal must ordinarily submit their motion to stay to the district court first. Appellant complied with NRAP 8 and her motion was denied for the reasons set forth in the statement of facts above. NRAP 8(d) states:

> In deciding whether to issue a stay in matters involving child custody, the Supreme Court or Court of Appeals will consider the following factors: (1) whether the child(ren) will suffer hardship or harm if the stay

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[2] Although stated as 10 days and 14 days, the actual timeshare September through May was the 3rd Friday of the month to the 2nd Monday following, i.e., 11 days; and the timeshare June to August was the 2nd Friday of the month to the 2nd Friday following, i.e., 15 days, which equals 144 days and with holidays brought Chris's timeshare to more than 146 days each year.

> is either granted or denied; (2) whether the nonmoving party will suffer hardship or harm if the stay is granted; (3) whether movant is likely to prevail on the merits in the appeal; and (4) whether a determination of other existing equitable considerations, if any, is warranted.

Here, as set forth in greater detail below, there is hardship and harm to both Evan and Chris in delaying Evan's relocation. The likelihood of Appellant prevailing upon the merits of her appeal low. Even if she did prevail on any issue, the likely result would be a remand to the district court for further findings consistent with the appellate decision, but the substantive decision is unlikely to change in light of the current evidence adduced at trial.

**A. There is hardship and harm to Evan in delaying his relocation.**

The hardship and harm that Evan will suffer are the very reasons why the district court found that Chris should receive primary physical custody for the purpose of relocating Evan to New York, i.e.,: (1) dad's choices for Evan are more closely aligned with the best interests of the child; (2) dad's intensive, hands-on involvement in Evan's educational and extra-curricular activities; (3) the routine that dad has with Evan in Las Vegas being implemented weekly rather than every three weeks; (4) despite there being no objective need for Evan to continue in therapy, Sandra continues Evan in weekly therapy with a therapist who, herself, could not articulate an objective basis to keep Evan in therapy; and (5) the on-going expense of dad's travel to Nevada to exercise his timeshare diverts financial resources from Evan's present and future education. *See e.g.,* AA1369-70.

Indeed, Evan is already suffering hardship and harm, arising out of one of

the other reasons the district court found in Chris's favor. The district court directed Chris to add to his proposed order *inter alia*:

> Court FINDS Plaintiff's admitted history of failure to communicate regarding legal custody issues, and Defendant's confirmation of such, to be disconcerting because it is important to be a respectful and open-minded co-parent on these very subjective issues. Further if Plaintiff is obstructionist and makes co-parenting difficult, the Court FINDS that is not in the child's best interests. Court further FINDS that Defendant does not appear to exhibit the same behavior toward Plaintiff. This Court finds that disagreement is different than obstructing efforts made to better the child's life.

AA1359, ¶O. Sandra's failure to co-parent in Evan's best interest continues in that, among other things, Sandra refuses to cooperate with Chris to provide any explanation to Evan as to why this summer's visitation schedule is different from past summers. Ex. A, ¶¶5-9. Evan knows he spends his summer timeshares with dad in New York, and Evan started asking and talking about going to New York in the summer as early as May and continues to do so. *Id.*, ¶6. Chris works hard to change the subject, but Evan is clearly confused and disappointed. *Id.*, ¶6. Sandra remains adamant that Evan should be told nothing more than that they are "shifting time" or that he would be spending the summer with her. *Id.*, ¶7. How is that statement, without something more, not to make a boy who is deeply attached to his father and his family in New York, not to feel alienated? This is a prime example of where a "disagreement is different from obstructing efforts made to better the child's life." AA1359, ¶O.

**B. There is potential for Chris to suffer hardship and harm.**

Chris and his twin brother own and operate a business coaching hockey.

AA1349, ¶13. Their client base is in their home-state of New York, where they also played professionally, and they have been announced as coaches of PAL Junior Islanders Hockey. AA1346, ¶2; Ex. A, ¶11. They will be coaching a team and conducting skills training for youth ranging from elementary through high school. *Id.* If Chris does not fulfill his commitment, he will not receive his full pay, he will disappoint the players, the parents, and the organization owner who are all counting on him, he will foist a greater workload onto his brother, and he will impair their future business prospects if not in New York full time. *Id.*

**C. Sandra is unlikely to prevail on the merits of her appeal.**

Sandra articulated twelve (12) issues for appeal in her fast track statement, which she categorized into four legal arguments as follows:

**1. Sandra argues the district erred by excluding evidence prior to the last custodial order.**

Most of Sandra's appellate arguments are related to the idea that the district court erred by excluding allegations and information existing prior to the last custodial order. *However, for all intents and purposes, all of that information was in front of the district court because Sandra put it in nearly every paper she filed with the district court*; it was contained in: (1) her opposition to Chris's motion for relocation (AA 533-81); (2) her objection to Chris's motion in limine to exclude such evidence (RA80-98); and (3) her pretrial memorandum (Pltf. Pre-trial Mem. filed Jan. 21, 2016 and Pltf. Amend. Pre-trial Mem. filed Feb. 2, 2016). If there had been anything so egregious as give the district court cause for concern about

Evan's welfare stemming from old allegations, the district court surely would have found way to let it in.

Importantly, the district court was very clear that Sandra *was* free to bring to its attention any facts, circumstances, allegations, or information existing prior to the last custody order that were not considered *by the district court* – even if it was something known to Sandra, and it would be Chris's burden to show where, if any where, that information was considered; however, Sandra did not raise any such information. RA105-09; *see also*, AA735-36.

Finally, by the time of trial it had been nearly four years since the last custody order was entered. Sandra did not present any credible evidence arising in those four years to suggest that Chris had done anything or acted in anyway that was contrary to Evan's best interest; however, the evidence supported that some of Sandra's choices in that time frame were in conflict with Evan's best interests. *See e.g.,* AA1359, ¶¶ *l*-o.

**2. Sandra argues the district court erred by determining the parties have joint physical custody.**

In this section of Sandra's Fast Track Statement, Sandra makes an erroneous legal argument – that recently enacted NRS 125C.003(1)(a) stands for the proposition that a parent must exercise a minimum 40% timeshare to be a joint physical custodian. However, NRS 125C.003(1)(a) only creates a presumption that joint physical custody is not in a child's best interest if a parent is *unable* to adequately care for a child at least 146 days per year. AA1369 at 56:17-23. First,

Chris was able and willing to care for Evan more than 146 days. Ex. A, ¶12. Second, the statute says nothing about how you count those days, and as the district court found, if you count every day that Chris had Evan, and not just overnights, then he did exercise 146 days and more per year. AA1369.

Sandra also attempts to re-argue the evidence by reference to a demonstrative exhibit that was not admitted into evidence, and which Chris did not confirm was accurate as Sandra alleges. Chris agreed that it reflected *flight days*, but also explained that it did not account for the days on either side of the flights dates that he had Evan in his care. *See e.g.,* AA712 at 56:17-23. In any event, the district court went on to make findings that in the event Chris was not a joint physical custodian, there were changed circumstances affecting the child's welfare that warranted modification. AA1369, ¶4.

### 3. Sandra argues the district court erred by finding there was a substantial change in circumstances warranting a custody change or that a custody change is in Evan's best interest.

The substantial changes in circumstance affecting the welfare of the child were numerous and abundantly supported by the evidence at trial. Sandra tries to argue that the changes affecting the welfare of the child either: (1) were not changes; (2) did not affect the child's welfare; (3) were contradicted by the evidence (i.e., the court abused its discretion); or (4) were insufficient to affect a change in custody. First, Sandra argues that her decision to keep Evan in weekly therapy when there was no evidence that he needed it was not her fault because it was the recommendation of the therapist. This line of reasoning should serve only

to reinforce that Sandra is conceding her parenting role and responsibilities to a therapist and has no objective ability to decide what is in her own son's best interest. Clearly, weekly therapy appointments directly and adversely affect the welfare of a young child when he does not need to be there.

Second, the district court found Sandra's failure and refusal to engage Evan in extra-curricular activities and socialization with his peers until Chris filed his motion. AA1369, ¶4(b). Here, Sandra argues 'no harm, no foul' because Evan is a great, smart, social kid, but this misses the point that she did not contribute substantially to Evan's development in this area, which was fostered almost entirely by Chris. It is a change because when the last order was entered Evan was barely four years old and not yet of an age to participate, but when he was, Sandra refused to cooperate.

Third, with respect to schooling, Sandra argues this does not constitute a changed circumstance, but it does because Evan was not in school when the last custody order was entered. Now, he is, and Sandra declined to allow Chris to enroll Evan in the best private schools in Nevada at Chris's expense. AA1359, ¶*l*.

Fourth, the district court cited the fact that Sandra allowed her older son to attend an on-line high school, "at his own pace" because he was having issues for which she did not get him any help and he failed to graduate on time; instead she gave him a share in her business. AA1358, ¶j. Again, now that Evan is in school, Sandra's apparent disregard for the importance of education or at least her failure to make tools and resources available to her children to ensure they succeed, as

reflected by the experience with her older child, is most assuredly a circumstance affecting the welfare of *all* of Sandra's children.

Finally, Chris's need to work and that work being in New York became a changed circumstance when Evan entered the first grade and Chris could no longer bring Evan back to New York for his timeshares. It is a change affecting Evan's welfare because it affects the frequency and duration with which he can learn by observation and example from the parent whose choices are more closely aligned with the best interests of the minor child. AA1361, ¶b.

**4. Sandra argues the district court erred in granting the relocation as Chris failed to prove it is in Evan's best interests and the relocation disrupts Evan's stability.**

One of the reasons the district court granted the relocation was because Evan does not have stability and continuity as between households. The testimony and evidence suggested and showed that Evan was better focused and better behaved in school during dad's timeshare. AA1347, ¶7. And, Sandra refused to engage Evan in many of the positive after-school activities that Chris provides for Evan and offered to pay for on Sandra's timeshare, but she refused. AA1349, ¶14. Therefore, relocating Evan promotes stability and routine.

Throughout her motion, Sandra claims she has always been Evan's "primary parent," by which she apparently means that she has Evan a little bit more of the time than Chris has him. Time alone does not make one a "primary parent." The testimony at trial and the findings set forth in the January 27, 2017 order support that Chris is a "primary parent" in every sense of the phrase. For most of 2009, the

whole family resided together. Ex. A, ¶13. Since their separation in 2010, Chris has spent approximately 11 to 14 or 15 days every month with his son. *See*, AA1348,¶9; AA1368-69, ¶3. From 2011 to 2014, Evan spent the overwhelming majority of his timeshare with his dad in New York, and he continued in 2015 and 2016 to spend his summer timeshare there. Ex. A, ¶3.

Sandra's on-going campaign to minimize Chris's commitment and contributions to Evan's upbringing and the strength of Evan's bond with his father is yet another reflection of Sandra's failure to recognize, support, or foster the relationship between father and son and only serves to reinforce that the district court's decision was correct and no harm will come to Evan by denying the stay.

**D. Whether a determination of other existing equitable considerations, if any, is warranted.**

Even in the unlikely event that Sandra prevails on any issue raised in her appeal, it is unlikely to change the district court's ultimate determination. The existence of multiple changed circumstances and the overwhelming evidence of Chris's consistent commitment to his son's education and development, the unique qualifications that Chris has as a youth hockey coach that inform his role as a parent, and the opportunities he can provide to Evan through his family and professional connections in New York are just some of the facts that weighed heavily in favor of Evan's relocation. None of this will be outweighed by any of the old allegations that Sandra's appeal seeks dredge up, which she seems to forget are equally unflattering to her.

## 3. CONCLUSION

Based on the foregoing, Appellant's request for a stay should be DENIED.

DATED this 14th day of August, 2017.

HUTCHISON & STEFFEN, PLLC

By: _____
Michael K. Wall (2098)
Shannon R. Wilson (9933)
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145

Attorneys for *Respondent Christopher Ferraro*

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on this 14th day of August, 2017, I caused the above and foregoing document entitled **RESPONDENT'S RESPONSE TO APPELLANT'S MOTION FOR STAY PENDING APPEAL OF JANUARY 27, 2017 ORDER GRANTING RELOCATION** to be served as follows:

- [X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- [ ] pursuant to EDCR 7.26, to be sent **via facsimile;** and/or
- [ ] pursuant to EDCR 8.05, sent electronically via the Court's electronic service system; the date and time of this electronic service is in place of the date and in place of deposit in the mail.
- [ ] to be hand-delivered;

to the attorney(s) listed below at the address and/or facsimile number indicated below:

Emily McFarling, Esq.
McFarling Law Group
6230 W. Desert Inn Road
Las Vegas, NV 89146

Attorney for *Appellant*

An employee of Hutchison & Steffen, PLLC

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EXHIBIT PAGE ONLY

# EXHIBIT A

HUTCHISON & STEFFEN

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## UNSWORN DECLARATION[1]

1. My name is Christopher Ferraro, I am the respondent in the matter styled *Sandra Lynn Nance v. Christopher Michael Ferraro*, lodged in the Nevada Supreme Court, case number 72454. I am over the age of eighteen. I am competent to make this declaration and do so based on personal knowledge.

2. The timeshare set forth in the stipulated parenting plan, which was entered November 30, 2012, was consistently followed by Sandra and me with rare exceptions.

3. From 2011 to 2014, Evan spent the overwhelming majority of his timeshare with me in New York, and he continued in 2015 and 2016 to spend his summer timeshare there. When in New York, Evan regularly sees his grandmother, grandfather, uncles, aunts, cousins, and friends his own age, some of whom he has known for more than the last five years.

4. Evan will attend the Joseph A. Edgar Intermediate School for grades 3-5 in Rocky Point, New York. There is an orientation on August 28, 2017, and school commences on September 5, 2017.

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[1] NRS 53.045 states, "Any matter whose existence or truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and dated . . ."

5. I have asked Sandra a few times to work with me to provide any explanation to Evan together as to why this summer's visitation schedule would be, and now has been, different from past summers.

6. For all of Evan's memory, and since he was four (4) years old, he has spent a minimum of one-third to one-half of every month with me, much of that time in New York. Evan knows he spends his summer timeshares with me in New York, and Evan started asking and talking about going to New York in the summer as early as May. He continues to ask why he is not coming to New York in June, and when told we would be together for hockey camp for a week in July, Evan questioned why one week, he said, "7 + 7 is 14, we should be there for 14 days." I work hard to change the subject. But Evan is clearly confused and disappointed.

7. Meanwhile, I attempted to communicate with Sandra about when and how we could tell Evan about the timeshare change, together. (Ex. B, a true and correct copy of emails between Sandra and me on this topic at p. 6.) But, Sandra has been adamant that Evan should be told nothing more than that we are "shifting time" or that he would be spending the summer with her. (Id. at pp. 1-5.)

8. I worried about how this change would affect Evan, and so I talked to Dr. Louis Mortillaro, a Las Vegas psychologist with many years of experience in the Clark County Family Courts, about what was in an 8 year old boy's best interest in this circumstance. Dr. Mortillaro said that a child in this situation

should be told the truth by both parents, together. (See Ex. B at pp.4-5.) I shared this information to Sandra, and still she refused to acknowledge any potentially adverse consequence to Evan's well-being. (Id.) My lawyer contacted Sandra's lawyer to see if they might contact the Court to get some guidance on this issue, and the request was denied. Sandra's lawyer reiterated it was her belief that Evan be told nothing, and she threatened me with a Motion for Contempt if I said anything to Evan. (Ex. C, correspondence between S. Wilson and E. McFarling.)

9. I feel that Sandra is trying to alienate Evan from me. One might think that if she were going to move the Court for this stay, as she has, that she might have also offered me more time with Evan over the summer, but she has not. Before she mentioned her intention to move for a stay, I asked if she would be willing to swap my one-week visitation following the end of the school year – as provided for by the new schedule – with a week in July so that Evan could attend a hockey camp where I am a coach. Sandra agreed to do that, and I am grateful, but given that she planned to file a motion for a stay and refuses to tell Evan why he is not seeing me as usual, would Evan's best interest not have been served by allowing both the June timeshare and a week in July, at a minimum?

10. Sandra has, in fact, had Evan all summer, except for the one week in July, that I traded for my one week in June so that Evan could attend a hockey camp with his me, his uncle, and Evan's New York friends.

11. My brother and I operate a business coaching youth hockey. Our client base is in our home-state of New York, where we also played professionally, and we have accepted a contract and been announced as head coaches of PAL Junior Islanders Hockey. We will be coaching a team and conducting skills training for youth ranging from elementary through high school. If I do not fulfill my commitment, I will not receive my full pay, I will disappoint the players, the parents, and the organization owner who are all counting on me, I will be placing a greater workload on my brother, and I will impair out future business prospects if not in New York full time.

12. I want to be clear that I was always available and willing to care for Evan 365 days per year if that was an option.

13. For most of 2009, Sandra, her other two children, Evan, and I resided together.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

8/13/17
DATE

SIGNATURE

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EXHIBIT PAGE ONLY

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

# EXHIBIT B

**Archived:** Monday, June 26, 2017 4:07:51 PM
**From:** Chris Ferraro
**Sent:** Monday, June 05, 2017 6:41:57 PM
**To:** Shannon Wilson; Cindy Pittsenbarger; Todd Moody
**Subject:** Fwd: EVAN FERRARO "Informing Evan of Summer Vacation 2017"
**Importance:** Normal

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Sent from my iPhone

Begin forwarded message:

> **From:** sandra nance <fabulouslyfitmom@gmail.com>
> **Date:** June 5, 2017 at 9:37:04 PM EDT
> **To:** Chris Ferraro <cferraro1513@aol.com>
> **Subject: Re: EVAN FERRARO "Informing Evan of Summer Vacation 2017"**
>
> Chris,
>
> It is my opinion that you are completely contradicting yourself in the last few emails.
>
> You first asked me my opinion on the this topic and when you didn't like the response of my suggestion, you said we should follow a doctor's suggestion (whom you spoke to on your own) who does not know our son, never met our son, nor has ever treated him (that I know of). I have suggested several times (including my last email) that Judith (Evan's court appointed therapist) should be the one giving input on this, and now you are back to saying it is us "the parents" who should be deciding what to do.
>
> Please remember.....You ,nor I appointed Evan to have a therapist. This was the courts decision, a direct order in our parenting stipulation and was due to the behavior that was occurring with Evan and it was ordered that it needed to be addressed. You and I both have done a yearly assessment on Evan with with Judith since she has been treating him and we ***both*** saw the same behavior happening with him. That is the only involvement you have had with her, but you choose to seek the advise of outside doctors? I am very curios as to why? Judith too is a trained/certified and a licensed therapist that **neither** of us chose on our own. Most importantly, she knows Evan has been seeing him for several years and Evan is extremely comfortable with her.
>
> You suggested in your email that I am questioning Evan's intelligence or attachment to you and your family. I have never stated such a thing, nor would I even suggest it so please ...I ask that you refrain from putting thoughts or words into my mouth. My concern here is for ***Evan's best interest***, as it always is and always has been! You stated that in life there is anxiety and uncertainty. You have to remember, we are not dealing

with an adult. We are dealing with an 8yr old little boy, who suffers from anxiety to begin with. NO one his age should ever experience anxiety and uncertainty if it can be avoided.

In addition, You claim you are worrying about " abandonment" feeling on your end, and with your family, but your disregard to me, his siblings, my family, his school, his friends, and his life that he has been living for 8yrs doesn't seem to matter much. Chris, I do not believe you are keeping ***Evan's best interests*** in mind through any of this, but rather your own.

Evan has seen you 10 days a month, with the exception of this slightly changing a few times over the years. It has been that way since he was an infant. The summer months have always been 4 more days over the routine 10 ( in June, July, August). Like I mentioned in my first email there have been several times that timeshares have had 4 week gaps or more due to holidays, etc that Evan has never questioned. I do not believe Evan will ever feel "abandoned" as you have suggested , but I do firmly believe that Evan will experience EXTREMELY HIGH ANXIETY to the stress of something that is going to be traumatic to him if indeed it is what happens. I believe it is completely unnecessary to put him through any of it until we have a **solid answer**.

I do believe this should be presented to Evan ***together when the time is right,*** but not until necessary . I have addressed it with not only Evan's therarapist Judith, his teacher, and my attorneys as well. They all believe until we know 100% we should not burden Evan with it. Evan's teacher had said she even mentioned to you that Evan wants, and thinks he is staying at Linda Givens until 5th grade. That shouldn't be surprising to you, because he has mentioned that same statement to you on numerous occasions.

If we cannot come to a decision on this together, then we will have to look to the courts for guidance on this. I will not put this stress on Evan and ruin his entire summer having him wonder what is going to happen, ***we don't even know ourselves yet***. I will not lie to him and tell him something we don't have a solid answer on.

I ***really and truly hope*** we can co-parent together and come to a decision on what is ***best for Evan!***

-Sandra

On Jun 5, 2017, at 4:26 PM, cferraro1513@aol.com wrote:

Sandra,

I spoke with Louis Mortillaro.

As far as Judith making a decision, Judith is not Evan's parents, we are. It is our decision to do what is in Evan's best interest with input of knowledgeable people. Judith has continued to "treat" Evan weekly, when any other therapist following accepted guidelines would have stopped long ago; therefore, I question her motivation and have not consulted her, but you may. I would be surprised if even she would say that Evan won't notice my absence for six weeks and we should say nothing/lie to him. Evan has seen me every 2-3 weeks nearly his whole life, of course he is going to notice.

Your proposal that we just tell Evan that we moved some time around so he can attend hockey camp with me for one week is not a reasonable proposal and disregard's Evan's intelligence and his attachment to me, my side of the family, and New York. Evan is going to feel abandoned and will have no understanding why.

Is our son feeling abandoned preferable to you than telling him the truth and risking a little uncertainty? I cannot believe it is. Some anxiety and uncertainty are a part of life, and it is our responsibility to help Evan through that, ***together***. Evan is more resilient than you give him credit for.

I will not ask again, so as not to be accused of harassing you, but I am asking now for you to provide me with a date on or around June 16th, that we can present this to Evan together. It is just not acceptable to leave him in the dark and feeling abandoned, which he absolutely will, seeing me for just one week this summer.

Alternatively, maybe we can meet each other half way. While I do not like it, we can tell Evan that the first half of the summer timeshare has been adjusted so he can attend hockey camp with me in July, but when I arrive in Las Vegas on July 7th, we inform Evan together about the rest of the summer, as I proposed in my last email. The following day, July 8th, begins my timeshare.

If I do not receive a date from you for this conversation with Evan together by Friday June 9th, I will make alternative plans to inform Evan what I proposed in my last email. It remains my strong preference to do this together.

Regards,
Chris

-----Original Message-----
From: sandra nance <fabulouslyfitmom@gmail.com>
To: cferraro1513 <cferraro1513@aol.com>
Sent: Mon, Jun 5, 2017 1:37 am
Subject: Re: EVAN FERRARO "Informing Evan of Summer Vacation 2017"

Chris,

You asked me my opinion in our last email exchange. I have stated my opinion on the situation in my last email to you, and it remains the same at this time.

I can see we both have different opinions on what should happen, and because we do not know exactly what is happening (until we hear from the courts) it is not fair to burden Evan with such a traumatizing situation.

We cannot possibly tell an 8yr old boy who already deals with anxiety issues something that is not 100% definite at this time.

I would like the name, and number of the psychologist you spoke with regarding what's best for Evan. I would like to speak to them as well.

In addition, I think the only one who can make such a decision (as you say this psychologist made) is Judith, Evan's therapist who has been seeing and treating him for years.

I do not think we should just ignore the situation, we can simply say that we have moved some time around this summer because there is a hockey camp that you wanted to attend with him, and the time it was taking place was during his time with me. Evan will **never** notice the difference if a big deal isn't made of it. He will just think that is the reason the timeshares are off this summer.

Until we have a **100% definite decision**, and timeshare in place I do not feel anything should be addressed with Evan. He should not be concerned or burdened with any of this.

-Sandra

On Jun 2, 2017, at 7:47 AM, cferraro1513@aol.com wrote:

Sandra,

I have thought a lot about your suggestion that we not tell Evan anything and your belief that he 'will not know any difference if it is not mentioned to him.' I even talked to a psychologist who focuses on child and family matters about what we should do.

He said an eight year old will definitely notice the gaps in visitation and not going to New York because he's been doing that every summer for years. He said not telling children things can foster animosity against either or both parents. His recommendation was that we tell Evan the truth together and keep it simple. Something like:

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I hope you are in agreement and I look forward to hearing from you soon.

Regards,
Chris

-----Original Message-----
From: sandra nance <fabulouslyfitmom@gmail.com>
To: Chris Ferraro <cferraro1513@aol.com>
Sent: Sun, May 21, 2017 3:35 pm
Subject: Re: EVAN FERRARO "Informing Evan of Summer Vacation 2017"

Chris,

I don't think anything should be said to Evan until we know further proceedings.

If Evan does in fact go to New York in the fall it is going to be traumatizing to him, and I do not feel that he should be put through ANY unnecessary stress, and have him wondering all summer what's going on.

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We can just say we are in the process of adjusting timeshares and this summer is going to be a bit different.

That's my opinion of what should happen at this time to do what's best for EVAN.

-Sandra

Sent from my iPhone

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> When and what are you thinking we should tell him?
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EXHIBIT PAGE ONLY

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

# EXHIBIT B

**Archived:** Monday, June 26, 2017 4:07:51 PM
**From:** Chris Ferraro
**Sent:** Monday, June 05, 2017 6:41:57 PM
**To:** Shannon Wilson; Cindy Pittsenbarger; Todd Moody
**Subject:** Fwd: EVAN FERRARO "Informing Evan of Summer Vacation 2017"
**Importance:** Normal

---

Sent from my iPhone

Begin forwarded message:

> **From:** sandra nance <fabulouslyfitmom@gmail.com>
> **Date:** June 5, 2017 at 9:37:04 PM EDT
> **To:** Chris Ferraro <cferraro1513@aol.com>
> **Subject: Re: EVAN FERRARO "Informing Evan of Summer Vacation 2017"**
>
> Chris,
>
> It is my opinion that you are completely contradicting yourself in the last few emails.
>
> You first asked me my opinion on the this topic and when you didn't like the response of my suggestion, you said we should follow a doctor's suggestion (whom you spoke to on your own) who does not know our son, never met our son, nor has ever treated him (that I know of). I have suggested several times (including my last email) that Judith (Evan's court appointed therapist) should be the one giving input on this, and now you are back to saying it is us "the parents" who should be deciding what to do.
>
> Please remember.....You ,nor I appointed Evan to have a therapist. This was the courts decision, a direct order in our parenting stipulation and was due to the behavior that was occurring with Evan and it was ordered that it needed to be addressed. You and I both have done a yearly assessment on Evan with with Judith since she has been treating him and we ***both*** saw the same behavior happening with him. That is the only involvement you have had with her, but you choose to seek the advise of outside doctors? I am very curios as to why? Judith too is a trained/certified and a licensed therapist that **neither** of us chose on our own. Most importantly, she knows Evan has been seeing him for several years and Evan is extremely comfortable with her.
>
> You suggested in your email that I am questioning Evan's intelligence or attachment to you and your family. I have never stated such a thing, nor would I even suggest it so please ...I ask that you refrain from putting thoughts or words into my mouth. My concern here is for ***Evan's best interest***, as it always is and always has been! You stated that in life there is anxiety and uncertainty. You have to remember, we are not dealing

with an adult. We are dealing with an 8yr old little boy, who suffers from anxiety to begin with. NO one his age should ever experience anxiety and uncertainty if it can be avoided.

In addition, You claim you are worrying about " abandonment" feeling on your end, and with your family, but your disregard to me, his siblings, my family, his school, his friends, and his life that he has been living for 8yrs doesn't seem to matter much. Chris, I do not believe you are keeping ***Evan's best interests*** in mind through any of this, but rather your own.

Evan has seen you 10 days a month, with the exception of this slightly changing a few times over the years. It has been that way since he was an infant. The summer months have always been 4 more days over the routine 10 ( in June, July, August). Like I mentioned in my first email there have been several times that timeshares have had 4 week gaps or more due to holidays, etc that Evan has never questioned. I do not believe Evan will ever feel "abandoned" as you have suggested , but I do firmly believe that Evan will experience EXTREMELY HIGH ANXIETY to the stress of something that is going to be traumatic to him if indeed it is what happens. I believe it is completely unnecessary to put him through any of it until we have a **solid answer**.

I do believe this should be presented to Evan ***together when the time is right,*** but not until necessary . I have addressed it with not only Evan's therarapist Judith, his teacher, and my attorneys as well. They all believe until we know 100% we should not burden Evan with it. Evan's teacher had said she even mentioned to you that Evan wants, and thinks he is staying at Linda Givens until 5th grade. That shouldn't be surprising to you, because he has mentioned that same statement to you on numerous occasions.

If we cannot come to a decision on this together, then we will have to look to the courts for guidance on this. I will not put this stress on Evan and ruin his entire summer having him wonder what is going to happen, ***we don't even know ourselves yet***. I will not lie to him and tell him something we don't have a solid answer on.

I ***really and truly hope*** we can co-parent together and come to a decision on what is ***best for Evan!***

-Sandra

On Jun 5, 2017, at 4:26 PM, cferraro1513@aol.com wrote:

Sandra,

I spoke with Louis Mortillaro.

As far as Judith making a decision, Judith is not Evan's parents, we are. It is our decision to do what is in Evan's best interest with input of knowledgeable people. Judith has continued to "treat" Evan weekly, when any other therapist following accepted guidelines would have stopped long ago; therefore, I question her motivation and have not consulted her, but you may. I would be surprised if even she would say that Evan won't notice my absence for six weeks and we should say nothing/lie to him. Evan has seen me every 2-3 weeks nearly his whole life, of course he is going to notice.

Your proposal that we just tell Evan that we moved some time around so he can attend hockey camp with me for one week is not a reasonable proposal and disregard's Evan's intelligence and his attachment to me, my side of the family, and New York. Evan is going to feel abandoned and will have no understanding why.

Is our son feeling abandoned preferable to you than telling him the truth and risking a little uncertainty? I cannot believe it is. Some anxiety and uncertainty are a part of life, and it is our responsibility to help Evan through that, ***together***. Evan is more resilient than you give him credit for.

I will not ask again, so as not to be accused of harassing you, but I am asking now for you to provide me with a date on or around June 16th, that we can present this to Evan together. It is just not acceptable to leave him in the dark and feeling abandoned, which he absolutely will, seeing me for just one week this summer.

Alternatively, maybe we can meet each other half way. While I do not like it, we can tell Evan that the first half of the summer timeshare has been adjusted so he can attend hockey camp with me in July, but when I arrive in Las Vegas on July 7th, we inform Evan together about the rest of the summer, as I proposed in my last email. The following day, July 8th, begins my timeshare.

If I do not receive a date from you for this conversation with Evan together by Friday June 9th, I will make alternative plans to inform Evan what I proposed in my last email. It remains my strong preference to do this together.

Regards,
Chris

-----Original Message-----
From: sandra nance <fabulouslyfitmom@gmail.com>
To: cferraro1513 <cferraro1513@aol.com>
Sent: Mon, Jun 5, 2017 1:37 am
Subject: Re: EVAN FERRARO "Informing Evan of Summer Vacation 2017"

Chris,

You asked me my opinion in our last email exchange. I have stated my opinion on the situation in my last email to you, and it remains the same at this time.

I can see we both have different opinions on what should happen, and because we do not know exactly what is happening (until we hear from the courts) it is not fair to burden Evan with such a traumatizing situation.

We cannot possibly tell an 8yr old boy who already deals with anxiety issues something that is not 100% definite at this time.

I would like the name, and number of the psychologist you spoke with regarding what's best for Evan. I would like to speak to them as well.

In addition, I think the only one who can make such a decision (as you say this psychologist made) is Judith, Evan's therapist who has been seeing and treating him for years.

I do not think we should just ignore the situation, we can simply say that we have moved some time around this summer because there is a hockey camp that you wanted to attend with him, and the time it was taking place was during his time with me. Evan will **never** notice the difference if a big deal isn't made of it. He will just think that is the reason the timeshares are off this summer.

Until we have a **100% definite decision**, and timeshare in place I do not feel anything should be addressed with Evan. He should not be concerned or burdened with any of this.

-Sandra

On Jun 2, 2017, at 7:47 AM, cferraro1513@aol.com wrote:

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