



**The Supreme Court of Ohio**

original action in prohibition

	(	
<b>State ex rel., Kathryn Van Kirk,</b>	(	Case No.
364 Bonniewood Dr., Cleveland, Ohio	(	
44110,	(	
	(	
	Relator,	(
<b>vs.</b>	(	<b>Complaint for peremptory &amp;</b>
	(	<b>alternative writ of prohibition —</b>
	(	<b>immediate ruling requested</b>
	(	
	(	
<b>Court of Appeals for the Eighth</b>	(	
<b>Appellate District,</b>	(	
1 W. Lakeside Ave. # 202, Cleveland,	(	
Ohio 44113,	(	
	(	
	Respondent.	(
	(	

**Why relator Kathryn Van Kirk seeks immediate relief**

1. Two days from now — on Thursday, March 17 — relator Kathryn Van Kirk's nine-year-old daughter is supposed to undergo highly specialized surgery in West Palm Beach, Florida. The surgery has been scheduled since November of last year. The surgery won't work if performed after the child reaches puberty. The potential availability of future dates for the surgery in 2016 is both uncertain and distant. Only two hospitals in the United States have substantial experience performing the procedure.

2. By longstanding court order, the nearly 47-year-old relator Kathryn Van Kirk, is both the legal custodian and residential parent of her daughter. So she is the final arbiter in deciding which medical decisions for her daughter are in her daughter's best interest.

3. Kathryn and her daughter are in Cleveland, Ohio, today awaiting this Court's response to this complaint. They are supposed to begin pre-surgery preparation at the Florida medical facility tomorrow (Wednesday).

4. Despite knowing about the surgery for months, the child's father suddenly has tried to stop the upcoming surgery. Respondent court of appeals has issued two orders within the last week that block Kathryn and her daughter from proceeding with the scheduled surgery. The court of appeals did so despite expressing no doubt that, as the child's legal custodian, Kathryn has the lawful discretion to cause the surgery to proceed. Nor did the court of appeals (or any other court) express any doubt that proceeding with the surgery can enhance the child's life.

5. This original action seeks a peremptory or alternative writ of prohibition immediately to bar the respondent court of appeals from enforcing

the two orders challenged here. The hoped-for practical effect would be to allow the surgery to proceed this week as scheduled.

6. A copy of one challenged order is **Exhibit 2** (March 9, 2016) and the other challenged order is **Exhibit 3** (March 10, 2016).

7. A single justice may grant an alternative writ of prohibition. State, ex rel. Gilligan v. Hoddinott, 36 Ohio St. 2d, 127, 131, 304 N.E.2d 382, 385 (1973).

8. Granting an alternative writ of prohibition would have the immediate effect of staying further judicial action on the challenged orders, allowing the surgery to proceed this week as scheduled. See SCt. Prac. R. 12.05.

### **The parties**

9. Relator is Kathryn Van Kirk (formerly Murch) is the mother of 9-year-old Olivia.

10. Respondent is the Ohio Court of Appeals for the Eighth Appellate District, sitting in Cleveland, Ohio.

## **Relator's daughter & the upcoming surgery**

11. **Olivia & her parents.** Relator gave birth to Olivia on January 12, 2007; Olivia is now nine-years-old. The father is Michael Moritz. The parents never married.

12. **Kathryn is residential parent & legal custodian.** Just under seven years ago—when Olivia was two—the juvenile court of Cuyahoga County issued a parenting order that adopted Kathryn's and Michael's parenting agreement. As the parents had agreed, the court ordered that Kathryn is the "residential parent and legal custodian" of Olivia. A copy of the order is **Exhibit 4**.

13. **Olivia's medical condition & need for surgery.** Olivia was born with fibular hemimelia, which has caused the fibula bone (calf bone) in her lower left leg to be about 50% shorter than the fibula bone of a normal child her age. According to doctors, Olivia requires surgery to offset the condition, and has only two options.

14. **Surgical options.** One option is to amputate part of Olivia's leg. The other is to undergo highly-specialized surgical procedures before she reaches puberty. That surgery aims at lengthening the fibula and requires months of rehabilitation. The only medical professionals in the country who have

substantial experience with that procedure are in Baltimore, Maryland, and West Palm Beach, Florida.

15. **Choosing the surgery scheduled this week.** After more than a year of prolonged study, investigation, and meetings with doctors, Kathryn eventually opted for the specialized surgery at West Palm Beach along with some follow-up aid from University Hospitals in Cleveland. Last November, she scheduled the surgery for this Thursday, March 17, 2016. The upcoming date would minimize lost school days because the last three months of Olivia's rehabilitation can occur this summer when there is no school.

16. **What the father has said.** The parents have disagreed about the extent to which the father, Michael Moritz, learned from the Florida facility all that he now says he wanted to learn. But he has not denied that he joined Kathryn in absorbing a wide variety of information about the specialized procedure over the last year, including consulting with physicians in Cleveland and outside Cleveland about it. Nor has he denied that he's known about this week's surgery date since last November. He has complained about the projected high cost of the surgery. The parenting order of 2009 would require him to pay 70% of the costs that insurance does not pay.

17. **The Florida facility balks when Michael objects.** In January this year, counsel for the Florida surgical facility asked Kathryn to confirm that she has the legal authority to allow the surgery. That came after Michael told the facility in a letter copying his lawyer that he does not consent to the surgery.

### **Motions in juvenile court arising from the upcoming surgery**

18. **Michael moves to upend Kathryn's status as legal custodian.** In February, Michael moved the juvenile court to amend the parenting order to which he'd agreed in 2009. His motion seeks to end Kathryn's longstanding, agreed-upon status as legal custodian. (As the juvenile court docket is not publicly available, the exact date of this motion is unclear; the time-stamp on the served copy is illegible.)

19. **Kathryn moves to restrain Michael.** Anxious that Michael might further disrupt plans for the surgery, Kathryn moved the juvenile court in early February to restrain him from interfering with the surgery plans.

20. **Michael moves to restrain Kathryn from going thru with the surgery.** About a week later, Michael moved the juvenile court to enjoin Kathryn from leaving Cuyahoga County with Olivia for medical care.

21. **Magistrate decision to restrain Michael.** On Monday, February 22, 2016, a magistrate for the juvenile court conducted a hearing and issued a decision to grant Kathryn's motion to restrain Michael from interfering with the planned surgery.

22. **Michael's motion to restrain Kathryn fails.** The magistrate did not decide to grant Michael's motion for a restraining order; Michael hadn't served his moving papers on Kathryn's lawyer until the hearing. Michael's lawyer had mailed the papers to an office address that Kathryn's lawyer had vacated seven years earlier. The magistrate's formal decision did not address his motion.

23. **Juvenile court's two orders of one week ago.** One week ago—on Tuesday, March 8—the juvenile court issued two orders.

(a) **Enjoins Michael from interfering.** One order adopted the magistrate's decision to grant Kathryn's motion to enjoin Michael from interfering with her authority as legal custodian to decide which medical care is best for Olivia. The order overruled Michael's objections to the magistrate's decision. A copy of the juvenile court's order is **Exhibit 5**.

(b) **Won't enjoin upcoming surgery.** The other juvenile court order denied Michael's motion to restrain Kathryn from taking Olivia outside

Cuyahoga County for medical care. Michael had refiled that motion on Friday, March 4, nearly two weeks after the magistrate's decision. A copy of that order is **Exhibit 6**.

### **Orders at issue by respondent Court of Appeals**

24. **Michael's notice of appeal.** The next day—March 9—Michael filed a notice of appeal to respondent Court of Appeals. The notice cited one order of the juvenile court: the order adopting the magistrate's February 22 decision to grant Kathryn's motion to enjoin Michael from interfering with the upcoming surgery.

(a) A copy of the notice of appeal is **Exhibit 7**

(b) A copy of the magistrate's February 22 decision is **Exhibit 8**.

(c) A copy of the only court order cited in the notice of appeal is Exhibit 5 (already identified in ¶ 23(a) of this complaint).

25. **Michael moves respondent to enjoin Kathryn.** On the same day that he filed his notice of appeal, Michael moved respondent Court of Appeals for an order that stays enforcement of "mother's restraining order against him." In the same motion, he asked respondent to disrupt the status quo by enjoining

Kathryn from "proceeding to travel" for the upcoming surgery. A copy is **Exhibit 9**.

**26. 1<sup>st</sup> order at issue: Respondent enjoins relator from traveling for this week's surgery (March 9 – Exhibit 2).**

Last week, through two of its judges, respondent enjoined Kathryn from traveling with her daughter for this week's surgery until further order of "this court." The order said nothing explicit about the juvenile court's order that barred Michael from interfering with this week's surgery. Respondent issued the order without giving relator an opportunity to be heard. (A copy of the order is Exhibit 2, see ¶ 6 of this complaint.)

(a) The next day, March 10, relator moved to reconsider the March 9 order and yesterday, March 14, relator moved respondent to rule immediately on her motion to reconsider.

(b) Respondent, however, appears to have concluded that it resolved relator's motion to reconsider and her motion for immediate ruling through the other order challenged here, described next.

**27. 2<sup>nd</sup> order at issue: Respondent's *sua sponte de facto* extraordinary writ (March 10 – Exhibit 3).**

The next day—last Thursday, March 10—respondent, acting through the same two judges, *sua sponte* issued an order to the juvenile court that functions as

an extraordinary writ of either mandamus or procedendo. In that order, respondent recited that the juvenile court had not yet resolved Michael's motion to amend the 2009 order adopting his agreement that Kathryn would be the child's legal custodian. Respondent *sua sponte* ordered the juvenile court to hold an evidentiary hearing on that motion on or before April 15, 2016.

(a) The March 10 *sua sponte* order said that "this matter is remanded to the juvenile court," but did not identify what comprised "this matter." Nor did it identify any jurisdictional ground upon which respondent had the power to address the motion pending in the juvenile court to alter relator's status as legal custodian.

(b) A copy of the order is Exhibit 3, see ¶ 6 of this complaint.

(c) A copy of the court of appeals docket sheet is **Exhibit 10**.

### **Claim for writ of prohibition**

28. Where a subordinate court patently and unambiguously lacks jurisdiction, this Court may exercise its original jurisdiction to prevent future unauthorized exercises of jurisdiction and to correct the results of previous unauthorized exercises of jurisdiction.

29. This Court may issue a writ of prohibition where the subordinate court either is absolutely devoid of jurisdiction or has jurisdiction of the subject matter, but has exceeded its authorized powers to exercise it.

30. Where a court patently and unambiguously lacks jurisdiction, this Court may issue a writ of prohibition regardless of whether adequate alternative remedies might exist.

31. A court of appeals has no original jurisdiction to grant prohibitory injunctions. Ohio Const. Art. IV, § 3.

32. A court of appeals has jurisdiction to grant an injunction while an appeal is pending before it, but only as ancillary to its appellate jurisdiction over that appeal—to preserve the status quo as needed to effect or preserve its appellate jurisdiction.

33. **March 9 order (Exhibit 2).** By enjoining Kathryn from proceeding with the scheduled surgery this week (Exhibit 2 – March 9 order), respondent patently and unambiguously exceeded its jurisdiction.

(a) Respondent had no original jurisdiction to issue that injunction.

(b) The only appellate jurisdiction that respondent had was through Michael's notice of appeal, which cited one juvenile court order: the order enjoining him from interfering with the surgery.

(c) Until respondent enjoined Kathryn, the status quo was—and always had been—that the surgery would go forward this week as scheduled.

(d) Affirmatively enjoining Kathryn from proceeding with the surgery did not preserve the status quo to effectuate respondent's appellate jurisdiction to justify ancillary jurisdiction; instead it disrupted and usurped the status quo.

(e) Respondent's injunction not only disrupts the status quo of Olivia's upcoming surgery, but usurps relator's vital role as the longstanding legal custodian of her daughter—a legal status that she continues to hold today.

(i) Kathryn's fundamental role as Olivia's legal custodian has never come before respondent for review.

(ii) Kathryn's pivotal role has continued unimpeded since its inception for almost seven years—until respondent reached beyond its lawful authority on March 9 to obstruct it without giving her even a chance to be heard.

34. **March 10 order (Exhibit 3).** By *sua sponte* ordering the juvenile court to conduct an evidentiary hearing on Michael's pending motion to upend Kathryn's longstanding status as Olivia's legal custodian, respondent again patently and unambiguously exceeded its jurisdiction. (Exhibit 3 – March 10 order.)

(a) Respondent had no appellate jurisdiction over that pending motion because the juvenile court had not decided it, so there was no lower court order resolving that motion to appeal to respondent.

(b) Respondent had no original jurisdiction to issue its coercive order to the juvenile court because no one had filed an original action invoking respondent's original jurisdiction to issue a writ of procedendo or mandamus to the juvenile court. Yet respondent's March 10 order functions as a *sua sponte* extraordinary writ compelling the juvenile court, and necessarily relator, to prepare for and proceed with an evidentiary hearing by April 15 according to respondent's unauthorized dictates.

35. Even without respondent's March 9 order (Exhibit 2), respondent's March 10 order has the practical effect of interfering with relator's authority as legal custodian. The March 10 order requires her to choose between preparing

for the hearing that respondent ordered *sua sponte* — to protect her legal status — and attending to the urgent needs of her daughter.

36. Because of the imminence of the scheduled surgery and relator's judgment that the imminent timing is best for her daughter, relator has no plain and adequate remedy in the ordinary course of law.

37. This Court has jurisdiction over this action pursuant to Article IV, Section 2 of the Constitution of the State of Ohio.

38. Incorporated by reference as if fully rewritten herein are:

- Memorandum of relator in support of this complaint — being filed under separate cover this morning after the filing of this complaint;
- Affidavit of Kathryn Van Kirk submitted with the complaint as **Exhibit 1**;
- All exhibits cited in the complaint.

#### **Prayer for Relief**

WHEREFORE, Relator Kathryn Van Kirk prays that this Court immediately issue the following relief:

1. A peremptory writ of prohibition permanently barring respondent from enforcing the contested orders of March 9 (Exhibit 2) and March 10 (Exhibit 3);

or

2. An alternative writ that stays enforcement of the contested orders during the pendency of this original action, which would allow relator to proceed with the surgery this week as scheduled.

Relator also asks that this Court grant such other and further relief as appears to be appropriate.

/s/ David Marburger  
David Marburger (0025747)  
Counsel of Record  
Marburger Law LLC  
11201 Edgewater Drive  
Cleveland, Ohio 44102  
(216) 577-8754  
david.marburger@sbcglobal.net

James S. Cahn (0032217)  
Skirbunt Cahn Skirbunt Ramsey, LLC  
One Cleveland Center, Suite 3150  
1375 E.9<sup>th</sup> St.  
Cleveland, Ohio 44114  
Phone: (216) 363-1313  
fax: (216) 363-1433  
jsc@scslaw.com

*Attorneys for Relator*

## CERTIFICATE OF SERVICE

Under Rule 12.02 (A)(2) of the Supreme Court Rules of Practice, the Clerk of the Supreme Court serves a copy of the complaint supporting memorandum, plus a summons upon the respondent. Nonetheless a courtesy copy has been provided on this 15<sup>th</sup> day of March, 2016, to Charles E. Hannan, the Cuyahoga County Prosecutor, Civil Division, The Justice Center – Courts Tower, 1200 Ontario Street, 9<sup>th</sup> Floor, Cleveland Ohio 44113, email: [channan@prosecutor.cuyahogacounty.us](mailto:channan@prosecutor.cuyahogacounty.us), tel: 216/443-7758, the usual counsel for respondent when responding to actions for extraordinary writs. A courtesy copy of the foregoing has been sent to Kevin Cronin, attorney for non-party Michael Moritz, the father of Olivia Moritz at [kevin@kevincronin.us](mailto:kevin@kevincronin.us) (tel: 216/377-0615) (Attorney Reg. 0039891).

/s/ David Marburger  
David Marburger (0025747)  
MARBURGER LAW, LLC  
Counsel of Record  
11201 Edgewater Drive  
Cleveland, Ohio 44102  
Tel: 216/577-8754  
email: [david.marburger@sbcglobal.net](mailto:david.marburger@sbcglobal.net)

James S. Cahn (0032217)  
SKIRBUNT CAHN SKIRBUNT  
& RAMSEY, LLC  
One Cleveland Center, Suite 3150  
1375 East 9<sup>th</sup> Street  
Cleveland, Ohio 44114  
Tel: 216/363-1313  
Fax: 216/ 363-1433  
email: [jsc@scslaw.com](mailto:jsc@scslaw.com)  
*Attorneys for Relator*

**Exhibit 1**

State of Ohio )  
 ) SS: Affidavit of Kathryn Van Kirk  
County of Cuyahoga )

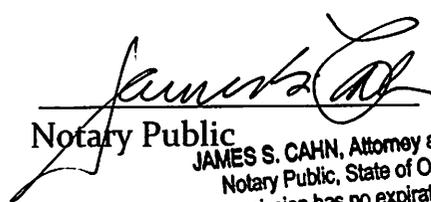
I, Kathryn Van Kirk, being duly sworn, state the following based on my personal knowledge:

1. This affidavit accompanies my complaint being filed in the Ohio Supreme Court asking for a writ of prohibition against the Cuyahoga County Court of Appeals. I am the party referred to in the complaint as the relator.
2. My daughter is nine-year-old Olivia Moritz whose scheduled surgery is at issue in the complaint.
3. I have read the complaint. The statements of fact in it are true.

Further affiant sayeth not.

  
Kathryn Van Kirk

Sworn to and subscribed before me in my presence by Kathryn <sup>Van Kirk</sup> ~~Moritz~~, this 14 day of March, 2016.

  
Notary Public  
JAMES S. CAHN, Attorney at Law  
Notary Public, State of Ohio  
My commission has no expiration date.  
Section 147.03 R. C.

**Exhibit 2**



**Exhibit 3**

# Court of Appeals of Ohio, Eighth District

County of Cuyahoga  
Nailah K. Byrd, Clerk of Courts

IN RE: O.M.

COA NO. LOWER COURT NO.  
104213 CU 08131418

JUVENILE COURT DIVISION

MOTION NO: 494274

Date 03/10/16

---

Journal Entry

---

Sua sponte, Father filed a motion to amend parenting plan on February 9, 2016 that the juvenile court failed to resolve prior to granting mother's motion for restraining order to enjoin father from interfering with child's medical care. The magistrate held a hearing on the motion for restraining order and issued a decision on the motion for restraining order on February 22, 2016 and the trial court granted the motion for restraining order on March 8, 2016. Father's motion to amend remains unresolved. Accordingly, this matter is remanded to the juvenile court with instructions to hold a full evidentiary hearing on Father's motion that was filed February 9, 2016 to amend the parenting agreement and for a ruling on that motion. The stay will remain in place pending further order of this court unless the parties file a joint motion dismissing this appeal. The trial court shall comply with this order on or before April 15, 2016. The record will be due 20 days after the journalization of the trial court's decision on the remand.

Judge MARY EILEEN KILBANE, Concur

  
SEAN C. GALLAGHER  
Presiding Judge

RECEIVED FOR FILING

MAR 10 2016

CUYAHOGA COUNTY CLERK  
OF THE COURT OF APPEALS  
By:  Deputy

CA16104213



93262430

**Exhibit 4**

COURT OF COMMON PLEAS, JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: OLIVIA MORITZ

CASE NO: CU08131418  
JUDGE: THOMAS F. O'MALLEY

JUDGMENT ENTRY

The matter came on for hearing this 7<sup>th</sup> day of September, 2009 before Judge Thomas F. O'Malley for approval of the Magistrate's Decision filed on August 21, 2009. Pursuant to Juv. R. 40(D)(4)(e) and Civ. R. 53(D)(4)(e), upon an independent review of the matter, the Court hereby affirms, approves and adopts the Magistrate's Decision that was filed on August 21, 2009.

The Court makes the following findings and orders:

The Court finds that the parties have knowingly and voluntarily entered into an agreement regarding allocation of parental rights and responsibilities which is attached as Exhibit A and incorporated herein.

The terms of the Agreement are as follows: mother is designated as the residential parent and legal custodian of Olivia Moritz.

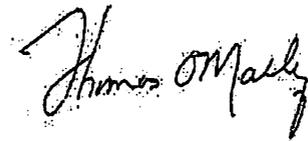
Each parent is to have parenting time in accordance with the schedule set forth in Exhibit A.

The Court finds that the terms of the Agreement are in the best interest of the child(ren). The Magistrate recommends that the Court approve and adopt the parties' Agreement as a final order.

Court costs.

IT IS SO ORDERED.

Rec'd	10/5/09
ASM	
Client	
Calendar	
Outlook	
Billed	



Judge Thomas F. O'Malley  
September 07, 2009

**Notice to the Parties:** Pursuant to Rule 34(J) of the Rules of Juvenile Procedure and Rules 3 and 4 of the Ohio Rules of Appellate Procedure, this entry may be a final judgment. If this entry is a final judgment, an appeal of this order may be taken to the Eighth District Court of Appeals by filing a Notice of Appeal with the Clerk of the trial court within thirty days of the entry of the final judgment. Failure to file a timely Notice of Appeal may result in the dismissal of the appeal.

Filed with the clerk and journalized by Cuyahoga County Juvenile Court Clerks Office,  
Volume 19, Page 8744, October 01, 2009, cjpam

COPY

IN THE COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO  
CASE NO.: CU08131418

IN THE MATTER OF  
OLIVIA MORITZ (01/12/2007)

JUDGE THOMAS F. O'MALLEY  
MAGISTRATE LAURA A. WILLIAMS

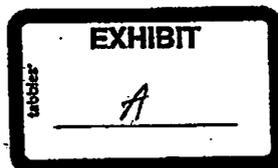
AGREED ORDER: PARENTING

*THIS MATTER* came on for hearing before Magistrate Laura A. Williams on various parenting motions. ~~The Father, Michael Moritz, was present with counsel, Attorney Kevin Cronin. The Mother, Kate Murch, was present with counsel, Attorney Anne S. Magyaros. The Guardian Ad Litem, Attorney Ristidi, was present.~~ The Court finds that the parties reached an agreement which the Court finds to be in the child's best interests and fair to both parties.

*IT IS THEREFORE ORDERED, ADJUDGED AND DECREED* that:

1. The Mother shall be designated as the primary residential parent of Olivia Moritz (01/12/2007).
2. The Father shall have parenting time with Olivia as the parties can agree; however, in the event the parents are unable to agree, then the Father shall have parenting time every other Wednesday from 5:30 p.m. through Sunday at 7:00 p.m.
3. The Father has the responsibility for picking up and returning Olivia. If the Father is unavailable for the pickup or delivery of Olivia, must use an adult well known to the child for this purpose. Any person driving the child shall use a safe and proper vehicle, must have a valid operator's license and insurance, and must comply with all child restraint laws. No person transporting the child may be under the influence of drugs or alcohol.
4. Both parties shall at all times maintain a safe and proper environment for Olivia.

LAW OFFICES OF  
ANNE S. MAGYAROS, LLC  
1188 BELL ROAD, SUITE 105  
CHAGRIN FALLS, OHIO 44022  
TELEPHONE (440) 338-6338  
FAX (440) 338-1687  
www.annesmagyaros.com



COPY

5. The Father must give notice of intent not to have parenting time not less than twenty-four (24) hours in advance, unless a last minute emergency occurs. A missed parenting time period is forfeited and does not have to be made up. If the Mother needs assistance in securing proper child care for what would otherwise be the Father's parenting time period, the Father shall make arrangements for same and shall bear all costs associated thereto.
6. In the event that either parent is unavailable during his/her parenting time for more than four (4) hours, he/she shall first offer the other parenting time with Olivia during that time before putting Olivia in the care of a third party.
7. The Father shall have equal access to records (medical, educational, day care).
8. The parties are encouraged to continue parenting counseling with the life coach or other professional.
9. Mother's Day and mother's birthday shall always be spent with the mother; Father's Day and the father's birthday shall always be spent with the father, regardless of which parent is entitled to the weekend parenting time. If the parties cannot agree on times, the time is 10:00 a.m. to 7:00 p.m. Then the child shall spend the rest of the weekend with the parent who has the child according to the regular schedule.
10. The child's birthday shall always be spent with the mother in the even-numbered years, and shall always be spent with the father in the odd-numbered years. The parent who is not the residential parent must provide one week's notice of his/her intent to have parenting time for a birthday. If the parties cannot agree, the time is 10:00 a.m. to 8:00 p.m. for a child not in school on the birthday, and 5:00 p.m. to 8:00 p.m. for a child in school on the birthday. The child's birthday is to be spent with the designated parent, even if the other parent is entitled to weekend, midweek, holiday, or vacation with the child.
11. Holidays. The parties shall share holidays as they can agree, but in the event they cannot agree, holidays shall be spent with Olivia as follows:
  - A. Easter: Father—even numbered years; mother—odd numbered years as agreed or, from Sunday, 10:00 a.m. to 7:00 p.m. Should the school age child's spring vacation occur in the week after Easter, the Easter parenting time shall extend to Wednesday 7:00 p.m. If spring vacation occurs during another time, the parent having Easter shall have the first three(3) weekdays of the spring vacation.
  - B. Memorial Day: Mother—even numbered years; father—odd numbered years as agreed or, Sunday 7:00 p.m. through Monday 8:00 p.m.
  - C. July 4th: Father—even numbered years; mother—odd numbered years as agreed or, 7/4 9:00 a.m. through 7/5 9:00 a.m.
  - D. Labor Day: Mother—even numbered years; father—odd numbered years as agreed or, Sunday 7:00 p.m. through Monday 8:00 p.m.
  - E. Halloween: Father—even numbered years; mother—odd numbered years as agreed or, 10/31 5:00 p.m. through 8:00 p.m.
  - F. Thanksgiving: Mother—even numbered years; father—odd numbered years as agreed or, Thursday 9:00 a.m. through Friday 9:00 a.m.

LAW OFFICES OF  
ANNE S. MAGYAROS, LLC  
1188 BELL ROAD, SUITE 105  
CHAGRIN FALLS, OHIO 44022  
TELEPHONE (440) 338-6338  
FAX (440) 338-1687  
www.annesmagyaros.com

COPY

G. Christmas Eve: Father—even numbered years; mother—odd numbered years as agreed or, 12/23 9:00 p.m. through 12/25 10:00 a.m.

H. Christmas Day: Mother—even numbered years; father—odd numbered years as agreed or, 12/25 10:00 a.m. through 12/31 5:00 p.m. numbered years as agreed or, 12/31 5:00 p.m. through 1/1 9:00 p.m.

I. A holiday that falls on a weekend shall be spent with the parent who is designated to have the child for that holiday, and the other parent shall have the child for the rest of the weekend. This time does not have to be made up.

12. If a child becomes ill or injured, requiring medication or consultation with a doctor or dentist, each parent must notify the other parent as soon as possible. If a child becomes ill while with the residential parent prior to a scheduled parenting time, the parent must contact the other parent and discuss the advisability of whether the parenting time should take place with the best interests of the child as the primary consideration. Parents should consider the nature of the illness (whether it may be contagious, or the child is physically uncomfortable, etc.), the care necessary, the ability to provide the care, exposure of the illness to others, parenting time plans, and any other important issue.

a. If the parents agree that the child should go for the parenting time, then the residential parent must provide written instructions and sufficient medication to last during the parenting time to the other parent. The parent who is not the residential parent must care for the child as directed, notifying the other parent if the child's condition worsens, or does not improve as might reasonably be expected.

b. If the parents cannot agree that the child should go for the parenting time period, then the parent who is not the residential parent has the right to visit the child for not more than one (1) hour at the time scheduled for the parenting time to begin.

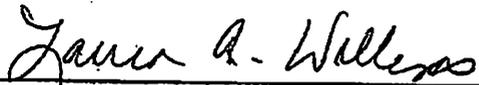
13. If the child becomes ill or injured during the parenting time requiring medication or medical or dental consultation, the parent who is not the residential parent must secure appropriate emergency treatment. No schedule can adequately spell out what should be common sense when dealing with an ill or injured child. The existence of any allergy or chronic condition suffered by a child must be communicated in writing from the residential parent to the parent who is not the residential parent, including medication or treatment recommended for the illness or condition. If a child often misses a parenting time due to illness or injury, then the parent who is not the residential parent may require the child to be examined by the child's usual physician. The examination shall be at the expense of that parent. The examination of the child may be in the presence of that parent, subject to the discretion of the treating physician. If the residential parent refuses to schedule a medical appointment as requested, the parent who is not the residential parent may file a motion.

LAW OFFICES OF  
ANNE S. MAGYAROS, LLC  
1188 BELL ROAD, SUITE 105  
CHAGRIN FALLS, OHIO 44022  
TELEPHONE (440) 338-6338  
FAX (440) 338-1687  
www.annesmagyaros.com

**COPY**

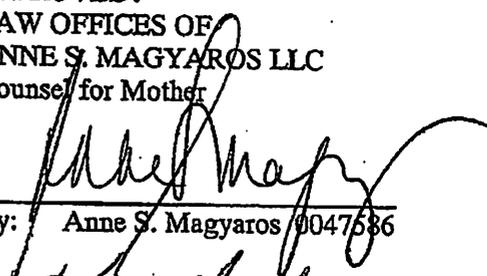
14. Scheduled periods of parenting time shall not be delayed or denied because a child has other scheduled activities (with friends, work, lessons, sports, etc.). It is the responsibility of the parents to discuss activities important to the child in advance, including time, dates, and transportation needs, so that the child is not deprived of activities and maintaining friends. The parent who has the child during the time of scheduled activities is responsible for transportation, attendance and/or other arrangements. If the activities are regularly scheduled, they should be agreed upon in advance and written into the judgment entry or decree. Both parents are encouraged to attend all their child's activities.
15. Each parent has the right to talk over the telephone with the child as often as the parents agree. If the parents do not agree, then the parent who is not the residential parent should not normally have telephone privileges more than twice per week. In addition, a parent may call a child once during a scheduled or agreed parenting time that is missed. Also, the residential parent has the right to call a child when on vacation with the other parent as the parties can agree; if no agreement, then the residential parent has telephone privileges twice per week if the vacation period takes place at the other parent's home. Telephone calls should be during the normal hours a child is awake and if the child is unavailable for conversation, each parent shall take the responsibility of seeing that the child timely returns the call.

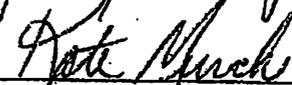
**IT IS SO ORDERED** this 12<sup>th</sup> day of May, 2009.

  
MAGISTRATE LAURA WILLIAMS

JUDGE THOMAS F. O'MALLEY

**APPROVED:**  
LAW OFFICES OF  
ANNE S. MAGYAROS LLC  
Counsel for Mother

  
By: Anne S. Magyaros 0047586

  
By: Kate Murch, Mother

LAW OFFICES OF  
ANNE S. MAGYAROS, LLC  
1188 BELL ROAD, SUITE 105  
CHAGRIN FALLS, OHIO 44022  
TELEPHONE (440) 398-6338  
FAX (440) 398-1687  
www.annesmagyaros.com

**COPY**

Counsel for Father

Kevin Cronin  
By: Kevin Cronin

Michael Moritz  
By: Michael Moritz, Father

Donald Ristity - 5-12-09  
By: Donald Ristity  
Guardian Ad Litem

LAW OFFICES OF  
ANNE S. MAGYAROS, LLC  
1188 BELL ROAD, SUITE 105  
CHAGRIN FALLS, OHIO 44022  
TELEPHONE (440) 338-6338  
FAX (440) 338-1687  
www.annesmagyaros.com

**COPY**

**IN THE MATTER OF OLIVIA MORITZ (01/12/2007)**

**PARENTS' AGREEMENT: CHILD ASSISTANCE**

The parties do hereby agree that Michael Moritz shall contribute to Olivia Moritz' care through a payment to Kate Murch in the amount of \$100/week payable on Sunday of each and every week.

In addition, Michael Moritz and Kate Murch shall share in all day care/child care/schooling costs for Olivia in the following percentages: Father 70% and Mother 30%. Michael Moritz shall pay his share of said expenses to Kate Murch as the same are requested of him and within three (3) days of the request. The parties shall pay his/her contribution to Olivia's day care/child care/schooling in a documented manner, i.e. canceled check, receipt, etc.

In addition, the parents shall share in Olivia's uninsured or uncovered medical expenses (including but not limited to: hospital, doctor, prescription, psychological, dental, optical, orthodontic) in the following percentages: Father 70% and Mother 30%. Both parties shall cooperate to ensure that all such costs are timely paid to the provider and/or reimbursed to the other party. The parties shall pay his/her contribution to the medical expenses in a documented manner, i.e. canceled check, receipt, etc.

Both parents believe this agreement to be fair and equitable and in Olivia's best interests. Both are signing this agreement voluntarily.

**APPROVED:**

*Kate Murch*  
By: Kate Murch, Mother

*5/9/09*  
Date

*Michael Moritz*  
By: Michael Moritz, Father

*5-9-09*  
Date

LAW OFFICES OF  
ANNE S. MAGYAROS, LLC  
1188 BELL ROAD, SUITE 105  
CHAGRIN FALLS, OHIO 44022  
TELEPHONE (440) 338-6338  
FAX (440) 338-1687  
www.annesmagyaros.com

**Exhibit 5**

COURT OF COMMON PLEAS, JUVENILE DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: OLIVIA MORITZ

CASE NO: CU08131418

JUDGE: THOMAS F. O'MALLEY

JUDGMENT ENTRY

The matter came on for consideration this 8<sup>th</sup> day of March, 2016 before the Honorable Judge Thomas F. O'Malley for approval of the Magistrate's Decision filed on February 22, 2016. Pursuant to Juv. R. 40(D)(4)(e) and Civ. R. 53(D)(4)(e), upon an independent review of the matter, the Court hereby affirms, approves and adopts the Magistrate's Decision that was filed on February 22, 2016.

The Court makes the following findings and orders:

The matter was before the court upon the Motion for a Restraining Order filed by Kathryn Murch, Mother

The Magistrate found that service requirements have been met and that all necessary parties were present in court.

The following persons were present for the hearing: Kathryn Murch, mother; Michael Moritz, father; Anne S. Magyaros, counsel for mother; Kevin Cronin, counsel for father.

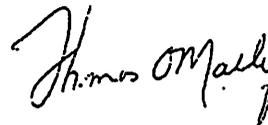
The Magistrate explained legal rights, procedures, and possible consequences.

The Magistrate heard arguments

Pursuant to the custody agreement executed by the parties on May 12, 2009, mother was designated as the residential parent and legal custodian of the child. Pursuant to statute mother has the authority to make medical decisions for the child.

**IT IS THEREFORE ORDERED THAT: The Motion for a Restraining Order filed by Kathryn Murch, Mother, requesting that father be enjoined from interfering with child's medical care is hereby granted.**

(daw)



Judge Thomas F. O'Malley  
March 08, 2016

**Notice to the Parties:** Pursuant to Rule 34(J) of the Rules of Juvenile Procedure and Rules 3 and 4 of the Ohio Rules of Appellate Procedure, an appeal of the order herein may be taken to the Eighth District Court of Appeals by filing a Notice of Appeal with the Clerk of the trial court within thirty days of the entry of the judgment or final order. Failure to file a timely Notice of Appeal may result in the dismissal of the appeal.

**Exhibit 6**

COURT OF COMMON PLEAS, JUVENILE DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: OLIVIA MORITZ

CASE NO: CU08131418

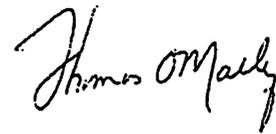
JUDGE: THOMAS F. O'MALLEY

JOURNAL ENTRY

This matter came on for consideration this 8<sup>th</sup> day of March, 2016, before Judge Thomas F. O'Malley regarding a Motion For Restraining Order filed by Kevin Cronin, Counsel for Michael Moritz, on March 4, 2016.

This Court finds that upon review of the Court file and the Motion, the Motion is not well taken.

It is therefore ordered that the Motion For Restraining Order is hereby overruled.  
(cjmps)



---

Judge Thomas F. O'Malley  
March 08, 2016

**Exhibit 7**

IN THE COURT OF COMMON PLEAS, JUVENILE DIVISION  
CUYAHOGA COUNTY, OHIO

COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY  
FILED

2016 MAR -9 A 0:19

IN THE MATTER OF:  
OLIVIA MORITZ  
(DOB: 1 12 2007)

CASE NO. CU 08131418  
CLERK OF COURTS  
JUDGE THOMAS F. O'MALLEY

Complaint

MAGISTRATE ELEANORE HILOW

CA 16 104213

NOTICE OF FILING OF APPEAL OF  
TO 8<sup>TH</sup> DISTRICT COURT OF APPEALS;  
EMERGENCY PROCEEDINGS

**FILED**  
COURT OF APPEALS  
MAR X 9 2016  
Clerk of Courts  
Cuyahoga County, Ohio

Father Michael Moritz, through counsel, provides notice of the filing of this Notice of Appeal of the February 22, 2016 decision in the proceedings before Magistrate Hilow, Cuyahoga County Court of Common Pleas, Juvenile Division, to the 8<sup>th</sup> District Court of Appeals. The Objections to Magistrate's Findings were over-ruled by the Court on March 7, 2016, approving the Magistrate's ruling.

The Magistrate's decision approved mother's Permanent Restraining Order against father contacting medical care providers offering or proposing medical services for his nine year-old disabled daughter and rejected father's Temporary Restraining Order against Mother, which would have temporarily prohibited travel to Florida to utilize medical services of Dr. Drvor Paley, Paley Institute, West Palm Beach, Florida. Mother has unilaterally chosen the medical procedures of Dr. Paley, a radical, lengthy, experimental and uninsured procedure that would devastate the family. Mother has scheduled a medical procedure with Dr. Paley for March 17, 2016, which father opposes, and may fly as early as March 10<sup>th</sup> to Florida, raising the urgency of this motion.

Respectfully Submitted;

  
KEVIN CRONIN, Attorney for Michael Moritz  
S. Ct. Reg. No.0039891  
The Brown Hoist Building  
4403 Saint Clair Avenue  
Cleveland, Ohio 44103  
p: 216.377.0615; f: 216.881.3928; e: kevin@kevincronin.us

SERVICE

A copy of this Motion was sent electronically to anne@annesmagyaros.com on this day, March, 9<sup>th</sup> 2016.

  
KEVIN CRONIN, Attorney for Michael Moritz

Judge:

CA 16 104213

CA16104213

93242503



COURT OF COMMON PLEAS, JUVENILE DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: OLIVIA MORITZ

CASE NO: CU08131418

JUDGE: THOMAS F. O'MALLEY

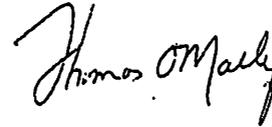
MOTION FOR A TRANSCRIPT OF  
HEARING

This matter came on for consideration this 3<sup>rd</sup> day of March, 2016, before the Honorable Thomas F. O'Malley upon the motion of Kevin Cronin, Counsel for Michael Moritz, requesting a transcript of the hearing held in this matter on February 22, 2016, before Magistrate Eleanore Hilow.

Upon due consideration, the Court grants said motion.

The Court further orders Michael Moritz, Father, to pay for the cost of the transcript. The cost will be determined by the Clerk's Office.

The transcript is to be ready for delivery as soon as possible.  
(cjmps)



---

Judge Thomas F. O'Malley  
March 04, 2016

Filed with the clerk and journalized by Cuyahoga County Juvenile Court Clerks Office,  
Volume 120, Page 9646, March 08, 2016, glumbus1

COURT OF COMMON PLEAS, JUVENILE DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: OLIVIA MORITZ

CASE NO: CU08131418

JUDGE: THOMAS F. O'MALLEY

JOURNAL ENTRY

This matter came on for consideration this 8<sup>th</sup> day of March, 2016, before Judge Thomas F. O'Malley regarding a Motion For Restraining Order filed by Kevin Cronin, Counsel for Michael Moritz, on March 4, 2016.

This Court finds that upon review of the Court file and the Motion, the Motion is not well taken.

It is therefore ordered that the Motion For Restraining Order is hereby overruled.  
(cjmps)



---

Judge Thomas F. O'Malley  
March 08, 2016

COURT OF COMMON PLEAS, JUVENILE DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: OLIVIA MORITZ

CASE NO: CU08131418

JUDGE: THOMAS F. O'MALLEY

JUDGMENT ENTRY

The matter came on for consideration this 8<sup>th</sup> day of March, 2016 before the Honorable Judge Thomas F. O'Malley for approval of the Magistrate's Decision filed on February 22, 2016. Pursuant to Juv. R. 40(D)(4)(e) and Civ. R. 53(D)(4)(e), upon an independent review of the matter, the Court hereby affirms, approves and adopts the Magistrate's Decision that was filed on February 22, 2016.

The Court makes the following findings and orders:

The matter was before the court upon the Motion for a Restraining Order filed by Kathryn Murch, Mother

The Magistrate found that service requirements have been met and that all necessary parties were present in court.

The following persons were present for the hearing: Kathryn Murch, mother; Michael Moritz, father; Anne S. Magyaros, counsel for mother; Kevin Cronin, counsel for father.

The Magistrate explained legal rights, procedures, and possible consequences.

The Magistrate heard arguments

Pursuant to the custody agreement executed by the parties on May 12, 2009, mother was designated as the residential parent and legal custodian of the child. Pursuant to statute mother has the authority to make medical decisions for the child.

**IT IS THEREFORE ORDERED THAT: The Motion for a Restraining Order filed by Kathryn Murch, Mother, requesting that father be enjoined from interfering with child's medical care is hereby granted.**

(daw)



Judge Thomas F. O'Malley  
March 08, 2016

**Notice to the Parties:** Pursuant to Rule 34(J) of the Rules of Juvenile Procedure and Rules 3 and 4 of the Ohio Rules of Appellate Procedure, an appeal of the order herein may be taken to the Eighth District Court of Appeals by filing a Notice of Appeal with the Clerk of the trial court within thirty days of the entry of the judgment or final order. Failure to file a timely Notice of Appeal may result in the dismissal of the appeal.

**Exhibit 8**

COURT OF COMMON PLEAS, JUVENILE DIVISION  
CUYAHOGA COUNTY, OHIO

Date	2/26/16
ASM	
Client	
Calendar	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Chart	

IN THE MATTER OF: OLIVIA MORITZ

CASE NO: CU08131418

JUDGE: THOMAS F. O'MALLEY

MAGISTRATE'S DECISION

This matter came on for hearing this 22<sup>nd</sup> day of February, 2016, before Magistrate Eleanore E. Hilow upon the Motion for a Restraining Order filed by Kathryn Murch, Mother

The Magistrate found that service requirements have been met and that all necessary parties were present in court.

The following persons were present for the hearing: Kathryn Murch, mother; Michael Moritz, father; Anne S. Magyaros, counsel for mother; Kevin Cronin, counsel for father.

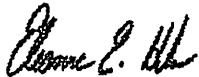
The Magistrate explained legal rights, procedures, and possible consequences.

The Magistrate heard arguments

Pursuant to the custody agreement executed by the parties on May 12, 2009, mother was designated as the residential parent and legal custodian of the child. Pursuant to statute mother has the authority to make medical decisions for the child.

**IT IS THEREFORE ORDERED THAT:** The Motion for a Restraining Order filed by Kathryn Murch, Mother, requesting that father be enjoined from interfering with child's medical care is hereby granted.

(daw)



---

Magistrate Eleanore E. Hilow

February 22, 2016

Received for filing, February 22, 2016, Kristin W. Sweeney, ex-officio Clerk,  
Court of Common Pleas, Juvenile Division

**Notice to Parties and Counsel:** A party may file written objections to a Magistrate's Decision within fourteen (14) days of the filing of the Decision, whether or not the Court has adopted the Decision during that fourteen-day period as permitted by Juv. R. 40(D)(4)(e)(i) and Civ. R. 53 (D)(4)(e)(i). The objection shall be specific and state with particularity all grounds for objection. A party shall not assign as error on appeal the Court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40(D)(3)(a)(iii) and Civ. R. 53(D)(3)(a)(iii) unless a party timely and specifically objects to the factual finding or legal conclusion as required by Juv. R. 40 (D)(3)(b) or Civ. R. 53 (D)(3)(b).

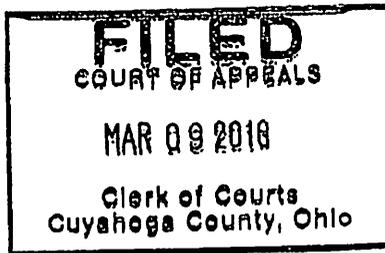
**Exhibit 9**

IN THE EIGHTH DISTRICT COURT OF APPEALS,  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF:  
OLIVIA MORITZ  
(DOB: 1 12 2007)

CASE NO. CA-16-104213

JUDGE



APPEAL TO 8<sup>TH</sup> DISTRICT COURT OF  
APPEALS; EMERGENCY PROCEEDINGS

MOTION TO STAY TRIAL COURT  
AND SET TEMPORARY INJUNCTION

Father Michael Moritz, through counsel, files this appeal to the Eight District Court of Appeals, Cuyahoga County, Ohio of the February 22, 2016 decision of Magistrate Hilow, Cuyahoga County Court of Common Pleas, Juvenile Division. Father's Objections to Magistrate's Findings were over-ruled by the Court on March 7, 2016, approving the Magistrate's ruling. The Court Judgment Entries are attached. Father requests to stay mother's restraining order against him, to allow the gathering of medical information, and, further, restrain mother from proceeding to travel or engage in the improvident medical care for their disabled nine year-old daughter.

The Magistrate's decision approved mother's Permanent Restraining Order against father, barring his contacting medical care providers offering or suggesting medical services for his nine year-old disabled daughter and rejected father's Temporary Restraining Order against Mother, which would have temporarily prohibited travel to Florida to utilize medical services of Dr. Druor Paley, Paley Institute, West Palm Beach, Florida. Mother has unilaterally chosen the medical procedures of Dr. Druor Paley, a radical and experimental procedure that would require years of follow-up care, devastate the family and is contrary to doctors' advice at the Cleveland Clinic. The scope of any insurance is, at this point, unclear. The Clinic doctors have provided orthopedic medical care for Olivia for six years and are her longest standing care providers. The Juvenile Court took no action on father's petition to amend the parenting agreement, to create a shared parenting arrangement and stronger ability to contribute to the medical decision-making regarding Olivia, filed February 9, 2016.

Mother is believed to be unemployed, with father working and providing 70% of the costs of

Judge:

CA 16 104213

CA16104213

93242807



medical insurance. Mother has scheduled a medical procedure with Dr. Paley for March 17, 2016, which father opposes, and may fly as early as March 10<sup>th</sup> to Florida, raising the urgency of this motion. The Paley medical plan would involve 10-12 weeks of care in Florida and 10-12 weeks of care in Cleveland, removing Olivia from school, leading to medical bills in the hundreds of thousands of dollars and would certainly result in father's bankruptcy. The Paley plan is just the first installment, setting a course of multi-year, multi-surgical treatment and is not in Olivia's best interests.

A very brief overview is attached to provide added information.

Respectfully Submitted;



KEVIN CRONIN, *Attorney for Michael Moritz*

S. Ct. Reg. No.0039891

The Brown Hoist Building

4403 Saint Clair Avenue

Cleveland, Ohio 44103

p: 216.377.0615; f: 216.881.3928; e: kevin@kevincronin.us

**SERVICE**

A copy of this Motion was sent electronically to anne@annesmagyaros.com on this day, March, 9<sup>th</sup> 2016.



KEVIN CRONIN, *Attorney for Michael Moritz*

**Exhibit 10**

**EIGHTH DISTRICT COURT OF APPEALS**

DATE: 3/14/2016  
TIME: 9:07 AM

APPEARANCE DOCKET

Case No: CA-16-104213  
Filing Date: 03/09/2016

IN RE: O.M.  
VS

Filing Cd:27 NOTICE OF APPEAL  
Judge:N/A  
Prior Judge:N/A  
Magistrate:N/A  
Panel Chair:N/A  
  
Status:A  
Jury Req:N/A  
Class:  
Prayer Amt:N/A

- Arbitration
- Mediation
- Settlement
- Notes
- Appealed

Disposition:  
APPELLANT BRIEF FILED  
NEWLY FILED

Date:  
03/09/2016  
03/09/2016

Next Action:  
Date/Time:

-----File Location-----  
Name: PEND.FILE  
Date: 03/09/2016

A 1	M., M. FATHER	0039891	CRONIN/KEVIN/H 4403 ST. CLAIR AVE. CLEVELAND, OH 44103-0000	(216) 377-0615
Service:				
E 1	M., K. MOTHER	0047586	MAGYAROS/ANNE/S THE GALLERY BUILDING 516 EAST WASHINGTON STREET CHAGRIN FALLS, OH 44022-0000	(440) 247-4766

Service:

Type	- Docket - Code	Party	Date	Description	Cost Amount
JE	201		3/09/2016	Motion by appellant to stay trial court's order regarding the child's medical care and for temporary injunction temporarily prohibiting travel by the mother and child for child's medical treatment pending further order of this court is granted. The case is placed on an expedited docket. The record is due on or before April 15, 2016. Appellant's brief is due 20 days after the record is filed, appellee's brief is due 20 days after appellant's brief is filed. The case will be heard at the earliest feasible date. Notice issued.	6.00
SF	RECT	A 1	3/09/2016	DEPOSIT AMOUNT PAID RUMSEY PARK MEDIA LLC	175.00
SF	LN	A 1	3/09/2016	LEGAL NEWS	10.00
SF	INIT		3/09/2016	CASE INITIATED	
SF	CASP	A 1	3/09/2016	COURT OF APPEALS SPECIAL PROJECTS	25.00
SF	CF	A 1	3/09/2016	CLERK'S FEE	25.00
SF	LR	A 1	3/09/2016	LEGAL RESEARCH	3.00
SF	CM	A 1	3/09/2016	COMPUTER FEE	10.00
EV	121	A 1	3/09/2016	NOTICE OF APPEAL FILED FROM COMMON PLEAS JVENILE	

**EIGHTH DISTRICT COURT OF APPEALS**

**DATE:** 3/14/2016  
**TIME:** 9:07 AM  
**CASE:** CA-16-104213

**APPEARANCE DOCKET**

**PAGE: 2**  
**CMSRS143**

DIVISION COURT, CASE # CU 08131418 WITH JOURNAL ENTRY,  
 9(B) PRAECIPE, DOCKETING STATEMENT AND DOCKET SHEET.

MO	353	A 1	3/09/2016	MOTION BY APPELLANT, TO STAY TRIAL COURT AND SET TEMPORARY INJUNCTION.	
JE	201		3/10/2016	Sua sponte, Father filed a motion to amend parenting plan on February 9, 2016 that the juvenile court failed to resolve prior to granting mother's motion for restraining order to enjoin father from interfering with child's medical care. The magistrate held a hearing on the motion for restraining order and issued a decision on the motion for restraining order on February 22, 2016 and the trial court granted the motion for restraining order on March 8, 2016. Father's motion to amend remains unresolved. Accordingly, this matter is remanded to the juvenile court with instructions to hold a full evidentiary hearing on Father's motion that was filed February 9, 2016 to amend the parenting agreement and for a ruling on that motion. The stay will remain in place pending further order of this court unless the parties file a joint motion dismissing this appeal. The trial court shall comply with this order on or before April 15, 2016. The record will be due 20 days after the journalization of the trial court's decision on the remand. Notice issued.	6.00
MO	MFOR	E 1	3/10/2016	MOTION FOR... EMERGENCY RECONSIDERATION OF STAY	
NT	NTOF	E 1	3/10/2016	NOTICE OF... APPEARANCE	