

f. That requires Mother's work-related summer daycare to be provided by the Father in Father's home and does not require Father to offer Mother the opportunity for additional parenting time in that circumstance;

g. That terminates Father's child support obligation and requires Mother to pay child support to Father;

h. That Mother to reimburse the Father for Guardian Ad Litem expenses billed after the filing of report [REDACTED] and paid by him to the Guardian Ad Litem within thirty (30) days of the Order; and

i. That Mother to pay the entire remaining balance due to the Guardian Ad Litem, if any, within thirty (30) days of the date of this Order.

2. Mother intends to file an Appeal.

3. This Court has discretion under Indiana Rules of Trial Procedure Rule 62(B)(1) to stay judgment pending the disposition of an Appeal.

4. If Father is allowed to enforce the judgment prior to the disposition of the Appeal, Mother as well as the parties' minor child may suffer irreparable harm. Specifically, in the event the Court of Appeals reverses the Trial Court's ruling, the child will suffer irreparable harm due the substantial disruption that will result from attending a new school in Father's district and then returning to [REDACTED] in Mother's district. Furthermore, the child will suffer irreparable harm due to the disruption in bouncing from Father's home to Mother's home again all while dealing with the issues related to multiple school transitions.

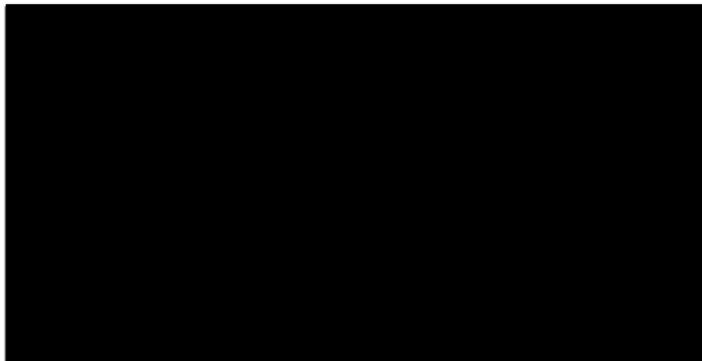
Additionally, if Mother is required to reimburse Father for Guardian Ad Litem and to pay all of the Guardian Ad Litem fees per the Order, she is unlikely to receive the funds back should the Trial Court's ruling be reversed.

5. Father will not be prejudiced by the requested stay given that he has regular and continuing parenting time with the parties' minor child pursuant to the prior Order. Furthermore, the child has excelled academically and socially at [REDACTED] while in Mother's primary custody.

6. Father will not be prejudiced by the requested stay as it relates to the funds Mother is ordered to reimburse to Father and/or pay the Guardian Ad Litem as Father has already made the payments to the Guardian Ad Litem. However, if the Court has concern about the funds Mother has been required to reimburse to Father as well as pay the Guardian Ad Litem pending disposition of the Appeal, Mother alternatively proposes that she pay those funds into her counsel's escrow account pending the disposition of the Appeal.

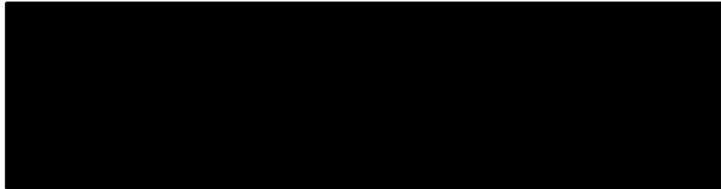
WHEREFORE, Mother, by counsel, requests the Court to stay the Court's judgment entered on [REDACTED] pending a disposition of Mother's Appeal and for all other relief proper in the premises.

Respectfully submitted,

A large black rectangular redaction box covering the signature and name of the attorney.

CERTIFICATE OF COMPLIANCE WITH IND. TRIAL RULE 5(G)

I hereby certify that the foregoing pleading or paper complies with the requirements of Ind. Trial Rule 5(G) with regard to information to be excluded from public access under Ind. Administrative Rule 9(G).



CERTIFICATE OF SERVICE

I hereby certify that, on the [redacted] I electronically filed the foregoing pleading or paper using the Indiana E-Filing System (IEFS), and that, on the [redacted] day of [redacted] a copy of the foregoing document was served electronically upon the following persons through the E-Service feature of the IEFS:



I hereby further certify that on the ____ day of _____ [redacted] a copy of the foregoing pleading or paper was served on the following person(s), by _____ Sheriff Service, _____ Certified Mail, or _____ depositing same in the United States mail, first-class postage prepaid, and addressed as follows:

None





Tue [REDACTED]

Page 1

JUVENILE NOTICE



PATERNITY OF [REDACTED]
[REDACTED]

TO: BRIAN CIYOU
50 E 91ST STREET, STE. 200
INDIANAPOLIS IN 46240

ATTORNEYS

PARTIES

IN RE THE PATERNITY OF:



PETITIONER

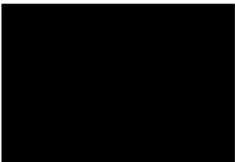


17906-49 BRIAN CIYOU

GUARDIAN AD LITEM



RESPONDENT



Court receives from [REDACTED] on [REDACTED] a minute entry from [REDACTED]
from Special Judge [REDACTED]
Comes now the court, having reviewed Mother's Motion to Stay Judgment, now
DENIES Mother's Motion to Stay Judgment. [REDACTED]

**IN THE INDIANA COURT OF APPEALS
CAUSE NO. [REDACTED]**

[REDACTED])
Appellant,) Appeal for the [REDACTED]
vs.)
) Trial Court Cause No. [REDACTED]
)
[REDACTED],) Hon. [REDACTED], Special Judge
Appellee.)

**VERIFIED EMERGENCY MOTION TO STAY
ORDER ON PETITION TO MODIFY**

Comes now the Appellant/Mother, [REDACTED] (“Mother”), in person and by counsel, Bryan Lee Ciyou, and files her Verified Emergency Motion to Stay Order on Petition to Modify, pursuant to Indiana Appellate Rule 39(C)-(D), and in support thereof, shows this Court as follows:

1. That Mother and Appellee/Father, [REDACTED] (“Father”), have one minor child together, [REDACTED], who is [REDACTED] years old.
2. That [REDACTED] has been in Mother’s physical custody since birth and after order following her filing of a Verified Petition to Establish Paternity on [REDACTED], with the parties sharing joint legal custody.
3. That on or about [REDACTED], Father filed his Petition to Modify Custody.
4. That after approximately nine (9) different days of trial, the court modified physical custody of [REDACTED] to Father.
5. That pursuant to the trial court’s Findings of Fact; Conclusions of Law, and Judgment issued [REDACTED] (“Order”), the trial court modified physical custody of [REDACTED] from Mother to Father, maintaining joint legal custody. (Exhibit “1”).
6. That Mother filed her Notice of Appeal of the Order on [REDACTED]

7. That Mother submits she will show on appeal there has been **no** substantial change in circumstances to justify modification of custody from Mother to Father as required pursuant to Indiana Code section 31-17-2-21.
8. That as the trial court entered findings of fact and conclusions of law, this Court applies a two-tiered standard. *Harris v. Harris*, 800 N.E.2d 930, 934-935 (Ind.Ct.App. 2003) [citations omitted]. First, this Court determines whether the evidence supports the findings; and second, whether the findings support the judgment. *Id.* at 935. The judgment will be reversed when it is shown to be clearly erroneous; a judgment is clearly erroneous when it is unsupported by the findings of fact and conclusions entered on the findings. *Id.*
9. That a trial court may **not** modify a child custody order unless (1) the modification is in the best interests of the child; and (2) there has been a substantial change in one or more of the factors in the best interest analysis. Indiana Code 31-17-2-21.
10. That in addition, in an initial custody determination, there is no presumption favoring either parent. *Lamb v. Wenning*, 600 N.E.2d 96, 98 (Ind. 1992). However, a more stringent standard governs requests for a change in custody. *Id.* In subsequent hearings to modify custody, the burden is on the petitioner to demonstrate that the existing custody order is unreasonable. This is because permanence and stability are considered best for the welfare and happiness of the child. *Id.*
11. That as such, Father had the burden to prove that modification was in the best interests of the child. The findings of the trial court do not contain evidence that support a conclusion that Father met this stringent burden. Furthermore, the trial court's Order does not contain a complete analysis of the best interest factors, which is required by statute. *See, Pea v. Pea*, 498 N.E.2d 110, 113 (Ind.Ct.App. 1986)

(party seeking modification presented evidence on each element of his burden of proof); *Wolljung v. Sidell*, 891 N.E.2d 1109, 1113 (Ind.Ct. App. 2008) (Trial court order reversed because the record lacked evidence that the parent seeking modification presented evidence on each of the statutory factors).

12. That when such an important issue as the custody of children is involved, a proper evidentiary hearing must be held at which both parties are heard and the trial court is apprised of all necessary information related to the best interests of the child before deciding whether modification can be ordered. *Bailey v. Bailey*, 7 N.E.3d 340, 344 (Ind.Ct.App. 2014). It is clear from the Order that the trial court did not have sufficient evidence on the best interest factors to warrant modification of custody.
13. That if the Order is not stayed pending appeal and Mother prevails, the child may suffer irreparable harm as he will have moved from her primary care-giver and support network since birth and result also in moving to a new school in Father's school district, only to return if reversed to [REDACTED] in Mother's school district and Mother's care, suffering significant emotional turmoil from this uprooting of his stability.
14. That conversely, maintaining the status quo pending appeal will ensure stability and that the child only moves one time if the case is reversed and eliminating the instability of an additional change.
15. That thus a stay pending appeal is requested herein in the interest of the minor child, as Mother has been her primary caregiver since birth.
16. That Mother also requests that the original Paternity Judgments regarding custody, child support and parenting time be reinstated pending appeal.

17. That Mother filed a Motion to Stay Judgment with the trial court on [REDACTED]. (Exhibit “2”).

18. This Motion to Stay was denied on [REDACTED]. (Exhibit “3”).

19. That pursuant to Appellate Rule 39(C)(1), Mother respectfully requests that this Court consider and rule on this Motion in the interest of the minor child, age [REDACTED] years old, who has now been out of his Mother’s care since approximately [REDACTED] when she previously was the sole caregiver.

WHEREFORE, Appellant, [REDACTED] in person and by counsel, Bryan Lee Ciyou, prays for stay of the Order entered on [REDACTED] for reinstatement of status quo by reinstatement of the order(s) modified by the Order of [REDACTED] and for all other relief just and proper in the premises.

Respectfully submitted,

CIYOU & DIXON, P.C.

/s/ Bryan L. Ciyou
Bryan L. Ciyou
CIYOU & DIXON, P.C.
50 East 91st Street, Suite 200
Indianapolis, IN 46240
Office: (317) 972-8000
Fax: (317) 955-7100
bciyou@ciyoudixonlaw.com

ATTORNEY FOR APPELLANT/MOTHER

VERIFICATION



CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing was served upon the following this
[REDACTED] via the Court's electronic filing system:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

/s/ Bryan L. Ciyou
Bryan L. Ciyou
CIYOU & DIXON, P.C.