SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5572-16T1

REBECCA HALEY, n/k/a REBECCA LIVERMAN,

Plaintiff-Appellant,

v.

JEFFREY W. HALEY,

Defendant-Respondent.

Submitted April 10, 2018 – Decided April 20, 2018

Before Judges Fisher and Moynihan.

On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Salem County, Docket No. FM-17-0062-16.

Cordell Law, LLP, attorneys for appellant (Michelle L. Ferreri, on the brief).

Respondent has not filed a brief.

PER CURIAM

The parties' 2006 marriage produced two children, who were born in 2008 and 2013; an August 2016 divorce judgment called for the parties' exercise of joint legal and physical custody of the

children and expressly declined to designate a parent of primary residence (PPR).

Not a year elapsed before plaintiff ran into court, moving for, among many other things, an order designating her as PPR and modifying the parenting-time schedule; defendant opposed the motion and cross-moved for other relief. In July 2017, after hearing counsel's argument, Judge Sandra Lopez rendered a thorough written decision and entered an order that disposed of the parties' twenty-two requests for relief. Judge Lopez denied plaintiff's request for PPR-designation and directed that the parties engage in mediation regarding the existing parenting-time schedule.

Plaintiff appeals,[1] arguing in a brief that reached the page-limit permitted by Rule 2:6-7 (requiring that the initial briefs of parties "shall not exceed 65 pages"):

> I. TRIAL COURT COMMITTED ERROR BY FAILING TO SCHEDULE A PLENARY HEARING AND FAILING TO ALLOW PLAINTIFF'S ATTORNEY TO CONDUCT DISCOVERY, INCLUDING BUT NOT LIMITED TO, THE ABILITY TO SUBPOENA RELEVANT DOCUMENTATION, CONDUCT DEPOSITIONS AND SERVE DISCOVERY, DESPITE THE CONFLICTING CERTIFICATIONS WHICH PRESENTED DISPUTED ISSUES OF MATERIAL FACT REGARDING CUSTODY, PARENTING TIME, SCHOOLING FOR THE CHILDREN AND OTHER ISSUES.
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> A. Legal Standard.

[1] We assume without deciding that the order under review is a final and appealable order even though it called, in part, for mediation on one or more issues.

B. The Parties' Certifications Clearly and Specifically Set Forth a Multitude of Material Facts in Dispute Demonstrating The Necessity for Scheduling a Plenary Hearing and Relevant Discovery.

1. Parenting Time Disputes.

2. Violations of Legal Custody and Children's Bill of Rights.

3. School Dispute.

4. Defendant['s] Demand [That] Plaintiff Fulfill Parenting Responsibilities on His Days.

5. Defendant's Violation of the Civil Restraints Order.

6. Proof of Defendant's Additional Deceit in His Certification.

7. When Considering the Totality of the Facts in Dispute.

II. TRIAL COURT COMMITTED ERROR BY FAILING TO SCHEDULE A PLENARY HEARING, FAILING TO ALLOW PLAINTIFF'S ATTORNEY TO CONDUCT DISCOVERY, INCLUDING BUT NOT LIMITED TO THE ABILITY TO SUBPOENA RELEVANT DOCUMENTATION, CONDUCT DEPOSITIONS AND SERVE DISCOVERY, AND FAILING TO ALLOW PLAINTIFF TO RETAIN A CUSTODY EVALUATOR REGARDING THE CUSTODY, PARENTING TIME AND SCHOOLING ISSUES AND REQUIRING DEFENDANT TO COOPERATE WITH SAME DESPITE THE PRESENTATION OF SUBSTANTIAL CHANGES IN

CIRCUMSTANCE TO WARRANT A REVIEW OF CUSTODY, PARENTING TIME AND SCHOOLING FOR THE CHILDREN.

A. Legal Standard.

B. Plaintiff's Certifications and Supporting Proofs Provided the Trial Court with Numerous Substantial Changes in Circumstances Related to the Best Interests of the Children to Warrant the Scheduling of a Plenary Hearing and Ordering Relevant Discovery and a Custody Evaluation.

We find insufficient merit in these arguments to warrant further discussion, R. 2:11-3(e)(1)(E), and affirm substantially for the reasons provided by Judge Lopez in her thoughtful and well-reasoned decision.

To be sure, as Judge Lopez observed, there were "contradict[ions]" in the submissions and the cross-motions revealed the parties were "having a problem co-parenting"; the judge also correctly recognized that the need for "[b]oth parties . . . to be flexible and accommodating . . . if they are going to be able to co-parent the children in a healthy way." But the judge also properly determined that the judgment of divorce, which incorporated an earlier consent order, anticipated the division of parenting time would not necessarily be equal going forward and that this inevitable inequality would not present grounds for a modification of the custody arrangement or the existing parenting-

time schedule. Consequently, Judge Lopez concluded — and we agree — that the factual disputes found in the parties' motion papers about custody and parenting time did not require an exchange of discovery or an evidentiary hearing.

Affirmed.