

# Northampton County Reporter

(USPS 395-280)

VOL. LIX

EASTON, PA January 12, 2017

NO. 54

**Ahmed Hagag, Plaintiff v. Meghan Turick, Defendant**

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4. NCBA/Miller Keystone Blood Center Blood Bank Program

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2. NCBA 2017 Committee Preference Form

3. Find us on: facebook

### NOTICE TO THE BAR...

**N.C. Reporter** – New advertisement submission deadlines every  
Friday at 4:00 p.m. (unless otherwise published).

**Annual Meeting – Thursday, January 19, 2017**

Registration form inside.

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**Attorney Referral & Information Service**  
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**Phone (610) 258-6333 Fax (610) 258-8715**  
**E-mail: [ncba@norcobar.org](mailto:ncba@norcobar.org)**  
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The Northampton County Reporter will be published every Thursday by the Northampton County Bar Association, 155 South Ninth St., Easton, PA 18042-4399. All legal notices relating to the business of the county, are required by rule of Court, to be published in this Journal. All legal notices must be submitted in typewritten form and are published exactly as submitted by the advertiser. Neither the Law Reporter nor the printer will assume any responsibility to edit, make spelling corrections, eliminate errors in grammar or make any changes to content.

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Ralph J. Bellafatto, Esquire  
Editor

### **NOTICE TO NCBA MEMBERS – BAR NEWS**

#### **Committee Preference Form**

Committees are reforming. Send in your Committee Preference Form if you want to be included!

Form located inside.

#### **New N.C. Reporter Advertisement Submission Deadlines Beginning in January**

Due to new postal regulations for the mailing of the N.C. Reporter, we are changing the deadline to submit advertisements for the Reporter.

All advertisements are due on Fridays at 4:00 p.m.

If you have any questions please contact the NCBA office.

#### **Barristers Boast**

Have you received an honor or award for community work? Do you have a new grandchild? Have you heard good news about one of your NCBA colleagues that should be shared?

Good news items about fellow members should be sent to:  
marybeth@nrcobar.org.

Too often we enjoy the comfort of opinion without the discomfort of thought.  
~ John F. Kennedy

**ESTATE AND TRUST NOTICES**

Notice is hereby given that, in the estates of the decedents set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

**FIRST PUBLICATION**

**CHIECO, CHRISTOPHER  
HERBERT a / k / a  
CHRISTOPHER CHICO a/k/a  
CHRISTOPHER CHIECO a/k/a  
CHRISTOPHER H. CHIECO,**  
dec'd.

Late of the Borough of Wilson,  
Northampton County, PA  
Administratrix: Nicole Chieco  
c/o Theresa Hogan, Esquire,  
Attorney-at-Law, 340 Spring  
Garden Street, Easton, PA 18042  
Attorney: Theresa Hogan,  
Esquire, Attorney-at-Law, 340  
Spring Garden Street, Easton,  
PA 18042

**GREKULA, MABEL A.,** dec'd.

Late of Hellertown, Northampton  
County, PA  
Executor: Norman A. Grekula,  
3232 Taylor Drive, Coopersburg,  
PA 18036-1124  
Attorney: Robert P. Daday,  
Esquire, 1030 W. Walnut Street,  
Allentown, PA 18102

**ITTERLY, IRENE M. a/k/a IRENE  
RUPELL IITTERLY,** dec'd.

Late of Pen Argyl, Northampton  
County, PA

Executor: Duane A. Itterly, Sr.,  
581 Mauch Chunk Road,  
Palmerton, PA 18071

Attorneys: John R. K. Solt,  
Esquire, John R. K. Solt, P.C.,  
2045 Westgate Dr., Suite 404B,  
Bethlehem, PA 18017

**MERLO, SALVATORE S.,** dec'd.

Late of Bethlehem, Northampton  
County, PA

Administrator: Vincent J. Presto,  
Sr. c/o Karl H. Kline, Esquire,  
Fitzpatrick Lentz & Bubba, P.C.,  
4001 Schoolhouse Lane, P.O.  
Box 219, Center Valley, PA  
18034-0219

Attorneys: Karl H. Kline, Esquire,  
Fitzpatrick Lentz & Bubba, P.C.,  
4001 Schoolhouse Lane, P.O.  
Box 219, Center Valley, PA  
18034-0219

**TUREK, DONNA J.,** dec'd.

Late of Bethlehem, Northampton  
County, PA

Executrix: Joyce A. Turek c/o  
Daniel M. O'Donnell, Esquire,  
901 West Lehigh Street,  
Bethlehem, PA 18018

Attorney: Daniel M. O'Donnell,  
Esquire, 901 West Lehigh Street,  
Bethlehem, PA 18018

**SECOND PUBLICATION**

**BICKFORD, ANN W. a/k/a ANN  
WATSON BICKFORD,** dec'd.

Late of the City of Bethlehem,  
Northampton County, PA

Executors: Peter Watson  
Bickford and Edward Watson  
Bickford c/o Robert V. Littner,  
Esquire, Littner, Deschler &  
Littner, 512 North New Street,  
Bethlehem, PA 18018

Attorneys: Robert V. Littner, Esquire, Littner, Deschler & Littner, 512 North New Street, Bethlehem, PA 18018

**HERD, RICHARD RALPH a/k/a RICHARD R. HERD a/k/a RICHARD HERD**, dec'd.

Late of Northampton County, PA  
Executrix: Nicole A. Herd c/o Geoffrey S. Worthington, Esquire, Merchants Plaza, P.O. Box 536, Tannersville, PA 18372-0536

Attorney: Geoffrey S. Worthington, Esquire, Merchants Plaza, P.O. Box 536, Tannersville, PA 18372-0536

**MASON-HACKMAN, LOIS R.**, dec'd.

Late of Walnutport, Northampton County, PA

Executor: John C. Stroup c/o Charles W. Stopp, Esquire, Steckel and Stopp, LLC, 125 S. Walnut Street, Suite 210, Slatington, PA 18080

Attorneys: Charles W. Stopp, Esquire, Steckel and Stopp, LLC, 125 S. Walnut Street, Suite 210, Slatington, PA 18080

**MORRIS, MYRTLE L.**, dec'd.

Late of the Township of Upper Nazareth, Northampton County, PA

Executors: Linda Werner and Neil Morris c/o Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

Attorneys: Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

**PATRIARCA, BENJAMIN**, dec'd.

Late of the Borough of Hellertown, Northampton County, PA

Executrix: Christina Patriarca c/o John M. Ashcraft, III, Esquire, 20 North 5th Street, Suite #1, Emmaus, PA 18049-2406

Attorney: John M. Ashcraft, III, Esquire, 20 North 5th Street, Suite #1, Emmaus, PA 18049-2406

**PECSEK, DORIS C.**, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Jeffrey Scott Pecsek c/o David B. Schwartz, Esquire, 44 E. Broad St., Suite 15, Bethlehem, PA 18018

Attorney: David B. Schwartz, Esquire, 44 E. Broad St., Suite 15, Bethlehem, PA 18018

**STOFANAK, PATRICK M., SR.**, dec'd.

Late of East Allen Township, Northampton County, PA

Executrices: Joanne M. Nemes and Vanessa A. Stofanak c/o Kevin F. Danyi, Esquire, Danyi Law Offices, P.C., 133 East Broad Street, Bethlehem, PA 18018

Attorneys: Kevin F. Danyi, Esquire, Danyi Law Offices, P.C., 133 East Broad Street, Bethlehem, PA 18018

**WILHELM, LENORA A.**, dec'd.

Late of the Borough of East Bangor, Northampton County, PA

Executor: Steven B. Molder, Esquire, 904 Lehigh St., Easton, PA 18042

Attorney: Steven B. Molder, Esquire, 904 Lehigh St., Easton, PA 18042

**THIRD PUBLICATION**

**ALBERT, JAY M.**, dec'd.

Late of the Borough of Bangor, Northampton County, PA

Executor: Todd M. Albert c/o David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019  
Attorney: David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

**BROWN, LAWRENCE J.,** dec'd.

Late of Bethlehem Borough, Northampton County, PA  
Executrix: Madeleine A. Brown c/o James J. Ruggiero, Jr., Esquire, Ruggiero Law Offices LLC, 16 Industrial Blvd., Suite 211, Paoli, PA 19301-1609  
Attorneys: James J. Ruggiero, Jr., Esquire, Ruggiero Law Offices LLC, 16 Industrial Blvd., Suite 211, Paoli, PA 19301-1609

**GIANDOMENICO, AMELIA M.,** dec'd.

Late of Hellertown, Northampton County, PA  
Executrix: Mary C. Kufrovich c/o Quintes D. Taglioli, Esquire, 121 N. Cedar Crest Blvd., Allentown, PA 18104  
Attorney: Quintes D. Taglioli, Esquire, 121 N. Cedar Crest Blvd., Allentown, PA 18104

**MARCKS, RAMONA a/k/a RAMONA P. MARCKS,** dec'd.

Late of Northampton, Northampton County, PA  
Executors: Daniel C. Marcks and Robert A. Marcks, III c/o Everett Cook, Esquire, 2309 MacArthur Road, Whitehall, PA 18052  
Attorney: Everett Cook, Esquire, 2309 MacArthur Road, Whitehall, PA 18052

**NAGLE, JOAN C. a/k/a JOAN NAGLE a/k/a JOAN K. NAGLE a/k/a JOAN KLINE NAGLE a/k/a JOAN CATHERINE NAGLE,** dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executrix: Deborah A. Parenti, 471 East Center Street, Nazareth, PA 18064-2309

Attorneys: Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064-2083

**ZUK, HELEN S.,** dec'd.

Late of Easton, Northampton County, PA  
Executrix: Nancy Jean Ellis c/o Karl H. Kline, Esquire, Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219  
Attorneys: Karl H. Kline, Esquire, Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219

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**NOTICE OF NONPROFIT  
INCORPORATION**

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Pennsylvania Nonprofit Corporation Law, by the following corporation:

The name of the corporation is:

**LEHIGH VALLEY PATES, INC.**

The corporation has been organized exclusively for promoting amateur youth athletics.

The Articles of Incorporation were filed on December 16, 2016.

DOUGLAS J. TKACIK, ESQUIRE  
18 E. Market Street  
P.O. Box 30  
Bethlehem, PA 18016  
(610) 882-3006

Jan. 12

**FICTITIOUS NAME  
REGISTRATION NOTICES**

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on November 4, 2016 for:

**CemTop**

located at: 5378 Wheatsheaf Lane, Bethlehem, PA 18017. The name and address of the individual interested in the business are Keith E. Rabson, 5378 Wheatsheaf Lane, Bethlehem, PA 18017. This was filed in accordance with 54 Pa. C.S. 311.

Jan. 12

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on November 14, 2016 for:

**EVERLIVE SOLUTIONS**

located at: 255 Park Ridge Dr., Easton, PA 18040. The name and address of the individual interested in the business are Juan F. Sarria, 255 Park Ridge Dr., Easton, PA 18040. This was filed in accordance with 54 Pa. C.S. 311.

Jan. 12

NOTICE IS HEREBY GIVEN, pursuant to the provisions of 54 Pa. C.S.A. Sec. 311 et seq., as amended, of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, a Certificate for the conduct of a business is Northampton County, Pennsylvania under the assumed or fictitious name, style or designation of:

**G-RAY COMMERCIAL**

with its principal place of business at: 655 Wyandotte Street, Catasauqua, PA 18032. The name and address of the person owning or interested in said business are Gary Chromiak,

655 Wyandotte Street, Catasauqua, PA 18032.

ROBERT H. JACOBS, ESQUIRE  
400 Northampton St.  
Suite 408  
Easton, PA 18042-3546

Jan. 12

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on September 13, 2016 for:

**PA MAINTENANCE**

located at: 330 S. Oak St., Bethlehem, PA 18017. The name and address of the business are Peter Arthur, 330 S. Oak St., Bethlehem, PA 18017. This was filed in accordance with 54 Pa. C.S. 311.

Jan. 12

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on November 4, 2016 for:

**SHATTERED STONE PRESS**

located at: 54 Meyers St., Nazareth, PA 18064. The name and address of the individual interested in the business are Keith Keffer, 54 Meyers St., Nazareth, PA 18064. This was filed in accordance with 54 Pa. C.S. 311.

Jan. 12

**CORPORATE FICTITIOUS NAME  
REGISTRATION NOTICE**

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Name Act (54 Pa. C.S.A. §301 et seq.) of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on November 9, 2016, of an Application for Registration of a Fictitious Name for the conduct of a business in Northamp-

ton County, Pennsylvania under the assumed or fictitious name, style, or designation of:

**TALAVERA MEXICAN CUISINE**

with its principal place of business located: 81 West Broad Street, Bethlehem, Northampton County, Pennsylvania.

The name and address of the entity filing the Registration are: Talavera, LLC, 2140 Glendale Avenue, Bethlehem, PA 18018.

PAUL A. FLORENZ, ESQUIRE  
60 W. Broad Street  
Suite 303  
Bethlehem, PA 18018-5721

Jan. 12

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**NOTICE OF DISSOLUTION**

This is to notify you that **M.S. Reilly, Inc.**, a Pennsylvania corporation with its registered office located at 934 Bushkill Drive, City of Easton, Northampton County, Pennsylvania, is dissolving and winding up its business on January 31, 2017.

Jan. 12

**IN THE NORTHAMPTON COUNTY  
COURT OF COMMON PLEAS  
ORPHANS' COURT DIVISION**

The following Executors, Administrators, Guardians & Trustees have filed Accounts in the Office of the Orphans' Court:

ESTATE; Accountant

HARLEY A. HENNING; Heather A. Henning, Hollie Staahl and Harley D. Henning, Administrators

RENATA T. CALERO a/k/a  
RENATA CALERO; Barbara Liantonio  
a/k/a Barbara M. Liantonio, Executrix

FLORENCE E. ROSMARIN; Cathy  
Bassiouni, Administratrix

AUDIT NOTICE

All parties interested are notified that an audit list will be made up of all Accounts and the said list will be called for audit at the Northampton County Government Center, Easton, PA on: FRIDAY, JANUARY 20, 2017 AT 9:00 A.M. IN COURTROOM #1.

Gina X. Gibbs

Clerk of Orphans' Court

Jan. 5, 12



**PARALEGAL (BETHLEHEM)**

KingSpry, a progressive, expanding regional law firm seeks a top notch full-time paralegal for our family law group.

Requirements: proficient in Microsoft Word, Outlook, Excel and PowerPoint and QuickBooks. Possess transcription skills; excellent interpersonal, organizational, communication and phone skills, self-starter and able to juggle multiple projects and deadlines; able to work independently and as part of the team in a fast-paced environment.

Position provides administrative support to two to three (2-3) attorneys, client contact, scheduling appointments/maintaining calendars, drafting of pleadings and agreements, creating and maintaining files.

Qualified applicants should submit resume and cover letter with salary requirements. Full benefit package provided.

Please submit cover letter and resume to Sarah O'Steen (sosteen@kingspry.com; 610-332-0314 fax).

Jan. 12

**AHMED HAGAG, Plaintiff v. MEGHAN TURICK, Defendant***Child Custody—Uniform Child Custody Jurisdiction and Enforcement Act.*

Plaintiff, Father, filed a Petition for Determination of Jurisdiction Pursuant to the UCCJEA; Defendant, Mother, filed Preliminary Objections to Father’s Complaint for Custody for lack of jurisdiction; and Mother also filed an Alternative Petition to Transfer Jurisdiction to Florida pursuant to 23 Pa. C.S. §5427. All of these filings raised the same legal question concerning whether jurisdiction to determine custody of the parties’ children properly lies in Northampton County, Pennsylvania or Flagler County, Florida.

The Court found that pursuant to the UCCJEA, the children’s home state is Pennsylvania because the children have lived in Pennsylvania for six consecutive months immediately before the commencement of the custody proceeding. Although the children spent substantial time visiting Florida, these periods of time did not amount to a permanent living situation such that Florida could be considered the home state.

Nevertheless, pursuant to Section 5427(b) of the UCCJEA, the Court determined that Florida was the more appropriate forum for this custody matter to be heard. The testimony revealed that domestic violence had occurred, is likely to occur in the future, and that the State of Florida can best protect Mother and the children from future instances of Father’s conduct. In determining Florida to be the more appropriate forum, the Court also considered the other factors presented in Section 5427, including the length of time the children have resided outside this Commonwealth, the distance between the Court in this Commonwealth and the court in Florida, the relative financial circumstances of the parties, the nature and location of the evidence required to resolve the pending litigation, the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence, and the familiarity of the court of each state with the facts and issues in the pending litigation.

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—No. C-0048-CV-2016-6234.

REBECCA YOUNG, ESQUIRE, for Plaintiff.

LAUREN SORRENTINO, ESQUIRE and CATHERINE CURCIO, ESQUIRE, for Defendant.

Order of the Court entered on October 21, 2016 by SLETVOLD, J.

*OPINION*

Before this Court are three matters: 1) the Petition of Ahmed Hagag (“Plaintiff” or “Father”) for Determination of Jurisdiction Pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”), 23 Pa. C.S.A. §5401; 2) Defendant, Meghan Turick’s (“Defendant” or “Mother”) Preliminary Objections to Father’s Complaint for Custody for lack of jurisdiction;<sup>1</sup> and 3) Mother’s Alternative Petition to Transfer Jurisdiction to Flagler County, Florida, pursuant to 23 Pa. C.S. §5427. All three filings raise the same legal question concerning whether jurisdiction to determine custody of the parties’ children properly lies in Northampton County, Pennsylvania or Flagler County, Florida. For the reasons that follow, we conclude that Flagler County, Florida should have jurisdiction.

<sup>1</sup> Pursuant to Pennsylvania Rule of Civil Procedure 1028, a party may object to a pleading based on lack of jurisdiction over the subject matter. Pa. R.C.P. 1028(a)(1).

*PROCEDURAL HISTORY*

The procedural history of this matter is as follows: On July 8, 2016, Mother obtained a Temporary Injunction for Protection Against Domestic Violence With Minor Children (“Temporary Injunction”) from the Circuit Court of the Seventh Judicial Circuit in and for Flagler County, Florida (“Temporary Injunction”). The Temporary Injunction *inter alia*, granted Mother custody of the children on a temporary basis. See ¶12 of Temporary Injunction dated July 8, 2016 by the Honorable R. Lee Smith, Circuit Judge. On or about July 19, 2016, Father filed a Complaint for Custody against Mother in Northampton County, Pennsylvania, seeking primary physical custody of the parties’ two children, Ali Hagag, D.O.B. 10/24/12, and Jasmine Hagag, D.O.B. 12/7/13. Counsel for Mother filed a limited Entry of Appearance for the sole purpose of contesting jurisdiction. On or about August 10, 2016 Mother filed Preliminary Objections to Father’s Complaint for Custody alleging that the court in Flagler County, Florida had jurisdiction over the matter and not the Court in Northampton County, Pennsylvania. Father filed a response to Mother’s Preliminary Objections on or about August 23, 2016. On August 30, 2016, Mother filed an Alternative Petition to Transfer Jurisdiction to Flagler County, Florida, pursuant to 23 Pa. C.S. §5427.

At the request of Pennsylvania counsel for the parties,<sup>2</sup> the undersigned engaged in a telephone conference call with Judge R. Lee Smith of the Circuit Court of the Seventh Judicial Circuit in and for Flagler County, Florida on August 25, 2016. As a result of that call, it was determined that it would be appropriate for both courts and counsel for the parties in both states to engage in a telephone conference call. On September 12, 2016, Pennsylvania counsel for both Mother and Father, Florida counsel for both Mother and Father, the Honorable R. Lee Smith and the undersigned participated in a telephone conference call. The Florida court agreed to keep the Temporary Injunction in place and defer disposition on any final injunction pending this Court’s decision on the jurisdictional questions raised herein. All parties agreed that this Court should determine the jurisdictional questions presented.<sup>3</sup>

On September 26, 2016, this Court conducted a hearing and accepted testimony from Mother and Father concerning the jurisdictional questions raised in their pleadings. Both Mother and Father submitted Proposed Findings of Fact and Conclusions of Law in support of their positions regarding jurisdiction. This matter is now ripe for disposition.

<sup>2</sup> Both Mother and Father have separate counsel in Florida and Pennsylvania.

<sup>3</sup> During that telephone call, the parties also discussed arranging visitation and/or contact between Father and the children. There was no allegation made that Father has abused the children. The Temporary Injunction involved allegations of violence towards Mother.

*FINDINGS OF FACT*

We make the following Findings of Fact:

1. Plaintiff/Father is Ahmed Hagag, an adult individual residing at 304 Crest Avenue, Bethlehem, Northampton County, Pennsylvania 18015. *See* Father's Complaint for Custody at ¶1.

2. Defendant/Mother is Meghan Turick, an adult individual who resides at 34 Cooper Lane, Palm Coast, Flagler County, Florida 32137. *See* Notes of Testimony ("N.T.") 9/26/16 at p. 30.

3. Mother and Father were never married. *See* Complaint at ¶4.

4. The children are Ali Hagag, date of birth 10/24/12, and Jasmine Hagag, date of birth 12/7/13. *See* Complaint at ¶3.

5. Both children were born in Pennsylvania. N.T. at p. 7.

6. Father began residing at the Crest Avenue address in Bethlehem, Pennsylvania in approximately 2009. *Id.* at p. 6.

7. Also residing in the Crest Avenue address are Father's parents and sister. *Id.* at p. 7.

8. Mother and Father met in Florida in 2011 when Father went to Florida to attend Embry-Riddle Aeronautical University. *Id.*

9. Father moved to Florida in August of 2011 to attend school and met Mother approximately two months after that. *Id.* at p. 8.

10. When Mother and Father met, Mother was living in her own apartment, and Father would often stay with her and her roommate in Daytona Beach, Florida. *Id.* at p. 32.

11. Mother testified that she had been living with her grandmother while going to college in Florida and that her name was not on the lease for the Daytona Beach apartment. *Id.* at p. 56.

12. Mother and Father became a couple and remained in Florida for approximately one year. *Id.* at p. 7.

13. Mother and Father moved in together in Florida. *Id.* at p. 9.

14. Mother and Father signed a lease for an apartment in 2011. *Id.* at p. 10.

15. The lease that the parties signed for the apartment in Florida was from December of 2011 until December of 2012. *Id.* at pp. 25-26.

16. Mother and Father stayed in the apartment that they signed the lease for in Florida for only five months until they broke the lease. *Id.* at p. 57.

17. After remaining in Florida for approximately one year, and upon discovering that Mother was pregnant, both Mother and Father moved to the Crest Avenue address with Father's family. *Id.*

18. Father testified that he and Mother made a mutual decision, upon discovering that Mother was pregnant, to move to Pennsylvania so that his family could help support them until he could finish school. *Id.* at p. 9.

19. Father left Embry-Riddle University due to poor academic performance. *Id.* at p. 27.

20. Father testified that upon returning to Pennsylvania, he intended to pursue a degree at Lehigh-Carbon Community College. *Id.* at p. 10.

21. Father testified that the parties had not conclusively determined whether or not they would reside in Pennsylvania or Florida when he finished school, but it would depend largely on job opportunities. *Id.* at p. 10.

22. Father denies that he ever intended to return to Embry-Riddle University. He indicated that he just wanted to finish his degree somewhere else. *Id.* at p. 75.

23. Mother testified that Father did not need to finish an Associate's degree program in order to be readmitted to Embry-Riddle. Father simply needed to bring up his grade point average. *Id.* at p. 33.

24. Mother testified that Father continually told her that his plan was to return to Embry-Riddle University. *Id.* at p. 33.

25. Mother testified that in May of 2012 Father received a letter from Embry-Riddle University indicating that he needed to complete courses at another university or college to bring up his grade point average and then he could return to Embry-Riddle. *Id.* at p. 32.

26. Mother's understanding was that the parties were coming to Pennsylvania so that Father could get some extra credits for school and assist his grade point average. *Id.* at p. 32.

27. Mother believed that the parties would be in Pennsylvania for approximately one year at the most. *Id.* at p. 33.

28. Father later testified that when the parties made the initial decision to move to Pennsylvania, they had no specific plans to move back to Florida. *Id.* at p. 12.

29. Mother testified that the parties remained in Pennsylvania longer than originally anticipated because of the length of time in which it took Father to complete school. *Id.* at p. 34.

30. Father did not obtain his Associate's degree until 2016. *Id.* at pp. 13-14.

31. It took Father four years to obtain an Associate's degree. *Id.* at p. 27.

32. After the parties moved to Bethlehem in 2012, Father began attending Lehigh-Carbon Community College to pursue aviation studies. *Id.* at p. 13.

33. Father attended school part-time in order to maintain a full-time job. *Id.* at p. 13.

34. Father testified that he maintained high honors at Lehigh-Carbon Community College and did not fail any courses. *Id.* at p. 13.

35. Mother testified that initially, at Lehigh-Carbon Community College, Father got good grades and made the Dean's list for two semesters,

but thereafter, Father failed several courses and got lower grades and lost his financial aid. *Id.* at p. 34.

36. Father denied that he lost financial aid to Lehigh-Carbon Community College due to poor academic performance, and instead, asserted that he lost his financial aid because it took him longer than two years to complete the Associate's degree program. *Id.* at pp. 28-29.

37. Mother and Father agreed that Mother would adopt Father's religious beliefs and convert to Islam. *Id.* at p. 11.

38. After the children were born, the family attended a mosque together. *Id.*

39. The children attended Sunday school in Pennsylvania only "from time to time." *Id.* at p. 29.

40. The children were in various activities in Pennsylvania, including gymnastics and Sunday school. *Id.* at p. 15.

41. Mother's family paid for all of the activities in which the children were involved. *Id.* at p. 55.

42. The children are covered by a policy of health insurance through the Commonwealth of Pennsylvania. *Id.* at pp. 17-18.

43. Mother testified that she has been the primary caregiver for Jasmine and Ali. *Id.* at p. 52.

44. The children have never been enrolled in daycare, either in Pennsylvania or Florida. *Id.* at p. 54.

45. Mother testified that Father was rarely home and she and the children were always with his family. *Id.* at p. 53.

46. Mother testified that Father took Ali on an airplane ride once but otherwise has never taken Jasmine out by himself, and that their family time with Father was very minimal. *Id.* at p. 53.

47. Mother testified that Father was either at school, at work, or out with his friends, and she would be sitting home alone with the children and Father's family. *Id.*

48. Mother testified that Father has never attended any of the children's activities or events. *Id.* at p. 55.

49. Mother worked various part-time jobs while the parties resided in Pennsylvania. *Id.* at p. 14.

50. Mother testified that she intended to finish school herself and had been previously enrolled in Daytona State College, but she also applied to Northampton Community College in Pennsylvania. *Id.* at pp. 38-39.

51. Mother applied to and was accepted at Northampton Community College, and she also applied for financial aid to attend in the Fall of 2016. *Id.* at p. 14.

52. Mother testified that she looked at schools in Florida and Pennsylvania because of Father's job situation. *Id.* at p. 39.

53. Mother testified that she never formally enrolled in Northampton Community College, but she did apply for financial aid and spoke with counselors about her options. *Id.* at p. 39.

54. Mother testified that no matter where she was staying, she never officially changed her address from her grandparents' home in Florida because she considered herself to be living there and all of her mail went there. *Id.* at p. 57.

55. Mother never got a Pennsylvania driver's license, and instead, maintained her Florida license. *Id.* at p. 33.

56. Mother never re-registered her vehicle to Pennsylvania nor did she register to vote in Pennsylvania. *Id.*

57. Mother testified that she did not do these things in Pennsylvania because she believed her time in Pennsylvania was temporary based upon her agreement with Father. *Id.* at p. 34.

58. For the past four years, Mother received mail both in Florida and Bethlehem. *Id.* at p. 58.

59. From 2012 until June of 2016, the children had regular and ongoing contact with the maternal grandmother and grandfather in Florida. *Id.* at p. 16.

60. The children regularly visited Florida to see their grandparents. *Id.* at p. 16.

61. Mother submitted a document indicating the number of times that she and the children visited Florida in a four-year period. *Id.* at p. 36. *See also*, Defendant's Exhibit "1."

62. The exhibit and Mother's testimony indicate that there were substantial visitations by Mother and the children to the state of Florida in a four-year period. *Id.* at p. 36; *see also*, Defendant's Exhibit "1."

63. Specifically, Mother and Ali were in Florida during the following approximate time periods:

- Early December 2012 through late January 2013;
- Approximately two weeks during Spring of 2013;
- Approximately one month during Summer of 2013.

*See* Defendant's Exhibit "1."

64. Mother, Ali, and Jasmine were in Florida during the following approximate time periods:

- Approximately one month during Spring of 2014;
- Late August through early October of 2014;
- Approximately four weeks in March 2015;
- July 25-September 19, 2015; and
- April 7-May 23, 2016.

*Id.*

65. Mother testified that Father did not consistently attend all of these trips with her and the children. N.T. at p. 36.

66. Father testified that he believed that the longest trip the children had taken to Florida was for approximately one month. *Id.* at p. 17.

67. Father testified that Mother never indicated during any of these trips to Florida that she was not going to return to Pennsylvania. *Id.* at p. 19.

68. In June of this year, the parties traveled to Florida by mutual agreement. *Id.* at p. 19.

69. Father testified that he obtained a temporary contractor job as a pilot in Key West, Florida and was scheduled to leave for Florida on June 29, 2016. *Id.* at p. 19.

70. Father testified that he planned to remain in Florida for several weeks, and Mother agreed to also travel to Florida during that time with the children in order to visit her family. *Id.* at p. 19.

71. Mother testified that she and Father planned a trip to Florida in June of 2016 based upon Father's representation that he had a job opportunity. *Id.* at p. 37.

72. Mother relayed that Father's job opportunity was a permanent position as a pilot, and Mother would return to Florida with her family and go back to school. *Id.* at pp. 37-38.

73. Mother's grandmother was to fly up to Pennsylvania and assist Mother with driving to Florida with the children. *Id.* at p. 19.

74. Father indicated that the parties planned to meet on or about July 5, 2016 at the Ft. Lauderdale Airport and drive back to Pennsylvania together. *Id.* at p. 20.

75. There was some confusion between Mother and her grandmother concerning Mother's departure date for Florida which resulted in them leaving for Florida on June 17, 2016 instead of on June 18, 2016. *Id.* at p. 20.

76. Father testified that he had intended to spend the day of June 18, 2016 with the children before he departed, but instead, Mother left for Florida on June 17, 2016. *Id.* at p. 20.

77. Father did not visit the children in Florida between June 17, 2016 and July 4, 2016. *Id.* at p. 40.

78. Mother and Father had very limited interactions between June 18, 2016 and July 5, 2016. *Id.* at p. 76.

79. On July 4, 2016, Father received a text message from Mother in Florida terminating their relationship and indicating that she did not intend to return to Pennsylvania with him. *Id.* at pp. 5, 21, 22.

80. Father returned to Pennsylvania. *Id.* at p. 22.

81. Mother obtained the Temporary Injunction mentioned supra. *Id.* at p. 22.

82. Many of Mother's belongings and the children's belongings are still in Pennsylvania. *Id.* at pp. 22-23.



83. Mother has been a resident of the state of Florida since she was three years old. *Id.* at p. 32.

84. Mother testified that she began residing at 34 Cooper Lane, Palm Coast, Florida in 2010 and has never officially changed her address. *Id.* at p. 31.

85. Mother has consistently resided at that address with the children since June 17, 2016. *Id.*

86. Mother currently has a job in Florida. *Id.* at p. 31.

87. The residence in which Mother and the children reside in Florida is owned by maternal grandmother and grandfather. *Id.*

88. Father claims that Mother's extended family resides in New Jersey. *Id.* at pp. 15-16.

89. Father testified that he believes Mother has two addresses in Florida, one in Palm Coast, which would be the residence of her grandmother and grandfather, and the other in Palm Springs, which would be the residence of Mother's mother and stepfather. *Id.* at p. 16.

90. Mother testified about a history of domestic violence between her and father. Specifically, Mother indicated that she had wanted to seek a Court Order protecting her from Father's abuse since 2014 when altercations began with some frequency between the parties. *Id.* at p. 41.

91. Mother said she did not obtain the Court Order until 2016 because she "just didn't have the courage." *Id.* at p. 41.

92. Mother indicated that she sought legal advice in Florida and sought the Temporary Injunction in Florida after their son made reference to seeing Father hit Mother. *Id.* at p. 41.

93. Mother testified that on June 17, 2016, right before she left for Florida with her grandmother, there was an altercation between her and Father wherein Father pushed her up against the refrigerator and also yelled at her grandmother. *Id.* at p. 43.

94. Mother also testified that on June 17, 2016, Father attempted to prevent her from leaving for Florida with the children. *Id.* at p. 43.

95. Mother testified that Father has, in the past, prevented her from leaving the residence multiple times. *Id.* at p. 43.

96. Mother testified that on December 24, 2014, the parties got into an argument wherein Father took Mother's keys from her, pushed her down the stairs in front of the children, and blocked her car in. *Id.* at p. 45.

97. Mother further testified that on prior occasions, Father has held a knife against her throat, put his hands on her, and punched things in front of the children. *Id.* at p. 45.

98. Mother testified that Father hurt her twice in her sleep. Specifically, she testified about an incident in Florida when she was pregnant with their son, and Father caused a vase that had been in the kitchen to crash on her head while she was asleep. *Id.* at pp. 45-46.

99. Father denied causing the vase to crash on Mother's head. *Id.* at p. 46.

100. Mother testified that on another occasion, Father forced her to have intercourse with him against her will. *Id.* at p. 46.

101. Mother testified that Father has been verbally threatening towards her on several occasions. *Id.* at p. 47.

102. Father denied ever holding a knife to Mother's throat. *Id.* at p. 69.

103. Father denied ever pushing Mother down the stairs on Christmas Eve in 2014. *Id.* at p. 69.

104. The police responded to the incident on Christmas Eve 2014 between Mother and Father. *Id.* at pp. 69-70.

105. Father denied that there was any violence between the parties on June 17, 2016. *Id.* at pp. 76-77.

106. Mother also testified to having an abortion at Father's demand because he threatened to take the children away if she did not get an abortion. *Id.* at p. 47.

107. Mother further testified that Father told her that if she chose to keep the child, she could stay in Florida and raise that child, and Father would take Ali and Jasmine away from her. *Id.* at p. 47.

108. Father testified that Mother had two abortions, not one. *Id.* at p. 71. He indicated that the first one was mutually agreed upon between the parties.

109. Father denied telling Mother that she had to have an abortion. *Id.* at p. 72.

110. Father did admit that he told Mother that he did not want any more children at this point in his life. *Id.*

111. Father admitted telling Mother that if she decided to keep the new baby, he did not want to be part of the baby's life. *Id.* at p. 72.

112. Father's expectation was that if Mother had chosen to have the baby instead of terminating the pregnancy, she would have gone back to Florida, and the children would have stayed in Pennsylvania with him. *Id.* at pp. 80-81.

113. Mother did not agree with that arrangement. *Id.* at p. 81.

114. Mother testified that approximately two months ago, her son strangled her daughter, bit her on the cheek and indicated that it was okay for him to hit girls because "Daddy hits you." *Id.* at p. 48.

115. Mother further testified that after she obtained the Temporary Injunction in Florida, she received an e-mail from Father which he titled, "Your Nightmare," wherein he tells Mother, *inter alia*, to "make sure that you spend every precious second with these kids because you won't be able to do that for a very long time." He also indicates, *inter alia*, that Mother will find herself in "a deep situation" legally. *Id.* at p. 49. This e-mail was admitted into evidence as Defendant's Exhibit "3."

116. Mother further testified that she left her iPad in Pennsylvania, and Father obtained it, changed her password, and forwarded all of her e-mails between Mother and Mother's lawyer to Father. *Id.* at p. 49.

117. Jessica Church, Mother's mother, testified by telephone. *Id.* at pp. 61-62.

118. Ms. Church relayed that she believed the parties were moving to Pennsylvania because Father lost his scholarship and was no longer able to attend Embry-Riddle University. *Id.* at p. 62.

119. Ms. Church relayed that she believed the parties also moved to Pennsylvania so that Father and Mother could let Father's family know that Mother was pregnant. *Id.* at p. 63.

120. Ms. Church did not believe that the parties were moving to Pennsylvania on a permanent basis. *Id.* at p. 63.

121. Ms. Church had multiple conversations with Father wherein they discussed the parties returning to Florida. *Id.* at p. 63.

122. Ms. Church communicates with Mother on FaceTime almost every day and has witnessed altercations between Mother and Father. *Id.* at p. 64.

123. Ms. Church heard an altercation between Mother and Father one Christmas Eve wherein they were arguing; Father threw Mother's keys out the window; and when Mother went to retrieve them, Father ran alongside of Mother on the steps and pushed her so that she fell down the steps. *Id.* at p. 65.

124. Ms. Church observed bruises on Mother's neck and on her chest from the Christmas Eve incident. *Id.* at p. 67.

125. Ms. Church has heard Father call Mother a "bipolar bitch" while Mother was holding their daughter. *Id.* at p. 65.

126. Ms. Church also observed "finger-like grab marks" around Mother's arm in June of 2016 when Mother came to Florida. *Id.* at p. 67.

127. Ms. Church testified that Mother was the children's primary caretaker. *Id.* at p. 66.

128. When Mother, Father, and the children visited Ms. Church in Florida, Father did not accompany the family on most outings. *Id.* at p. 66.

129. Mohammed Hagag, Father's older brother, testified that he did not witness an altercation between Father and Mother on Christmas Eve of 2014, but he further testified that he did not arrive at the house until after the police had been called. *Id.* at p. 86.

130. Father's older sister, Esraa Hagag, testified that she did not witness any violence between the parties on June 17, 2016 at the Crest Avenue address. *Id.* at p. 88.

### DISCUSSION

As noted *supra*, all of the filings at issue in this matter pertain to the same question of law concerning which court has appropriate jurisdiction

to decide the instant custody dispute. The UCCJEA has been adopted by both Pennsylvania and Florida, and it governs this Court's disposition of subject matter jurisdiction in custody actions. *See* 23 Pa. C.S. §5401 *et seq.*; Fla. Stat. §61.501 *et seq.*

Section 5421 of the UCCJEA provides:

(a) *General rule.*—Except as otherwise provided in section 5424 (relating to temporary emergency jurisdiction), a court of this Commonwealth has jurisdiction to make an initial child custody determination only if:

(1) this Commonwealth is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this Commonwealth but a parent or person acting as a parent continues to live in this Commonwealth;

(2) a court of another state does not have jurisdiction under paragraph (1) or a court of the home state of the child has declined to exercise jurisdiction on the ground that this Commonwealth is the more appropriate forum under section 5427 (relating to inconvenient forum) or 5428 (relating to jurisdiction declined by reason of conduct) and:

(i) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this Commonwealth other than mere physical presence; and

(ii) substantial evidence is available in this Commonwealth concerning the child's care, protection, training and personal relationships;

(3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this Commonwealth is the more appropriate forum to determine the custody of the child under section 5427 or 5428; or

(4) no court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2) or (3).

...

23 Pa. C.S. §5421(a). Section 5402 of the UCCJEA defines "Home State" as the "state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding." *Id.* at §5402.

Even if we determine that Pennsylvania is the children's Home State pursuant to Section 5421 of the UCCJEA, we may still decline to exercise jurisdiction. Section 5427 of the UCCJEA provides:

(a) *General rule.*—A court of this Commonwealth which has jurisdiction under this chapter to make a child custody

determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion or request of another court.

(b) *Factors*.—Before determining whether it is an inconvenient forum, a court of this Commonwealth shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

- (1) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;
- (2) the length of time the child has resided outside this Commonwealth;
- (3) the distance between the court in this Commonwealth and the court in the state that would assume jurisdiction;
- (4) the relative financial circumstances of the parties;
- (5) any agreement of the parties as to which state should assume jurisdiction;
- (6) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
- (7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
- (8) the familiarity of the court of each state with the facts and issues in the pending litigation.

(c) *Stay*.—If a court of this Commonwealth determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) *Jurisdiction declined*.—A court of this Commonwealth may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

23 Pa. C.S. §5427.

### *The Parties' Arguments*

Initially, Father argues that Pennsylvania is the home state of the children, while Mother argues that Pennsylvania is not clearly the children's

home state given their considerable time in Florida, including time spent there within the year preceding the filing of Father's Custody Complaint. *See* Brief of Plaintiff in Support of Motion to Determine Jurisdiction and in Opposition to Defendant's Preliminary Objections and Petition to Transfer Jurisdiction to Flagler County, Florida ("Father's Brief") at p. 5 and *see also*, Defendant's Proposed Findings of Fact, Conclusions of Law and Legal Memorandum in Support Thereof ("Mother's Brief") at p. 9. In fact, Mother suggests that the children do not have a home state. *See* Mother's Brief at p. 9. Mother also argues that the ambiguity in the children's home state requires us to consider alternative bases for jurisdiction pursuant to 23 Pa. C.S. §5421(2). *See* Mother's Brief at p. 14.

Mother also argues that there are simultaneous proceedings in Pennsylvania and Florida as a result of Father's custody filing in Pennsylvania and Mother's Temporary Injunction in Florida. *See* Mother's Brief at p. 15. More specifically, Mother argues that pursuant to Section 5426 of the UCCJEA, a Pennsylvania court may not exercise its jurisdiction if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with the act, unless the proceeding has been terminated or stayed by the court of the other state because a Pennsylvania court is a more convenient forum under the UCCJEA. *See* Mother's Brief at p. 15. Mother argues that the Temporary Injunction which she obtained in Florida on July 8, 2016 serves as a custody determination pursuant to the UCCJEA and predates Father's action in Pennsylvania. *See id.*

Father counters by arguing that Florida has not taken jurisdiction for the purpose of issuing an initial child custody determination and that the Temporary Injunction is of no consequence because the Florida court has not taken evidence or issued any factual determinations. *See* Father's Brief at p. 7. Father asserts that Pennsylvania is an appropriate and convenient forum for the custody determination, *see* Father's Brief at p. 8, while Mother argues that Pennsylvania is an inconvenient forum, and the matter should be transferred to Florida. *See* Mother's Brief at p. 16.

### *Pennsylvania Is the Children's Home State*

Initially, we determine that the home state of the children is Pennsylvania. It is clear from the testimony that Pennsylvania is the state in which the children have lived with their parents for six consecutive months immediately before the commencement of the instant custody proceeding, which Father has commenced in this Court. Both parents testified consistently that they resided in Bethlehem, Pennsylvania with Father's family since the children were born up until June of 2016. Although the children spent substantial time visiting in Florida with Mother, these periods of time were visits and not a permanent living situation. The children were enrolled

in activities in Pennsylvania. They attended church in Pennsylvania. Father attended school and worked in Pennsylvania. The children are insured through Pennsylvania.

Although the parties' testimony differs on whether their trip to Florida in June while Father worked a job as a pilot was temporary or permanent, it does not change our conclusion that Pennsylvania is the home state. Even if we accept as true Mother's assertions that the parties always intended to return to Florida at some point, it does not change the fact that the children lived their lives consistently in Pennsylvania prior to the filing of Father's Custody Complaint.

*Florida Is the More Convenient Forum*

The determination that Pennsylvania is the children's home state does not end the inquiry for purposes of jurisdiction of this custody matter. We accept as credible the testimony of Mother and Ms. Church concerning the domestic violence between the parties. Mother testified credibly that Father has been both physically and verbally abusive to her at various times, even in front of the children. She testified credibly that Father has threatened her, berated her, called her names, assaulted her, held a knife to her throat, and bullied her into having at least one abortion. The abuse continued throughout the duration of the parties' relationship, including when Mother was pregnant. Mother also testified credibly that there was an incident of domestic violence on June 17, 2016, the day that Mother left for Florida with the children.

The fact that the children have witnessed domestic violence is affecting them in a negative way and resulting in Ali acting in violent ways towards his younger sister. Ms. Church's testimony substantiated Mother's testimony regarding the domestic violence. Although Father and his family members denied these instances of domestic violence, we find Mother's testimony and that of Ms. Church to be more credible than that of Father and his family. In evaluating the factors referenced *supra*, Pennsylvania courts give considerable weight to the factor of domestic violence. *See e.g., S.K.C. v. J.L.C.*, 94 A.3d 402 (Pa. Super. 2014).

Pursuant to Section 5427(b) of the UCCJEA, we determine that Florida is a more appropriate forum for this custody matter to be heard. Pursuant to Section 5427(b)(1) of the UCCJEA, we find that domestic violence has occurred, is likely to occur in the future, and that the State of Florida can best protect Mother and the children from future instances of Father's conduct. In addition, pursuant to Section 5427(b)(2), the children and Mother have spent substantial time in Florida and have resided in Florida consistently since June of 2016, due to Mother's unwillingness to return to Pennsylvania to continue residing with Father as a direct result of the domestic violence.

Pursuant to Section 5427(b)(3), the substantial distance between Northampton County, Pennsylvania and Flagler County, Florida would make it extremely difficult for Mother and the children to be heard in the custody matter in Northampton County, Pennsylvania, especially when Mother's mother, and grandparents, who have served as her primary support systems and who would be witnesses in the matter, all reside in Florida with Mother and the children.

Pursuant to Section 5427(b)(4), the financial circumstances of the parties make it fairer for the matter to be heard in Florida. Father has been working consistently throughout the duration of the parties' relationship and has furthered his education. Whereas Mother put her education and job opportunities on hold in order to be the primary caregiver for the children.

Pursuant to Section 5427(b)(6), the nature and location of the evidence required to resolve the custody matter, including the testimony of the children, weighs in favor of the matter being heard in Florida, where the children are currently located.

Section 5427(b)(7) and 5427(b)(8) are factors concerning the ability of the court of each state to decide the issues expeditiously and the procedures necessary to present evidence, as well as the familiarity of the court of each state with the facts and issues in the pending litigation. These factors weigh equally in favor of Pennsylvania and Florida hearing the custody matter.

We note that the factor presented in Section 5427(b)(5) refers to any agreement of the parties as to which state should assume jurisdiction. That factor is inapplicable to this case.

### *CONCLUSIONS OF LAW*

Wherefore, we enter the following Conclusions of Law:

1. The children's home state is Pennsylvania;
2. Pennsylvania would be an inconvenient forum for this custody dispute for the reasons stated in this Opinion;
3. Jurisdiction properly lies in Flagler County, Florida;
4. Mother's testimony and the testimony of Jessica Church concerning instances of domestic violence between Mother and Father are credible;
5. Father's testimony and the testimony of Mohammed Hagag and Esraa Hagag regarding the absence of domestic violence between Mother and Father lack credibility;
6. Mother remained in Florida with the children in order to escape domestic violence at the hands of Father;
7. Forcing Mother to litigate in Pennsylvania poses a financial burden on Mother. It is less financially burdensome for Father to litigate in Florida;
8. Mother's evidence and witnesses are in Florida;
9. If Mother had returned to Pennsylvania with Father, she likely would have continued to have been subjected to domestic violence;



10. The Florida court is in the best position to protect Mother from domestic violence;

11. The distance between Florida and Pennsylvania imposes an additional burden on Mother if she were forced to litigate in Pennsylvania. Father, who is a pilot, has less of a burden being compelled to litigate in Florida;

12. This Court declines to exercise jurisdiction over this custody matter and transfers jurisdiction to Flagler County, Florida.

### *CONCLUSION*

Wherefore, we enter an Order consistent with this Opinion.

### *ORDER*

AND NOW, this 21st day of October, 2016, it is ORDERED and DECREED as follows:

1. Pursuant to Plaintiff Father's Motion for Determination of Jurisdiction Pursuant to the UCCJEA, it is ORDERED and DECREED that jurisdiction over this custody dispute lies in Flagler County, Florida;

2. Defendant Mother's Preliminary Objections to Plaintiff Father's Complaint for Custody are SUSTAINED;

3. Defendant Mother's Alternative Petition to Transfer Jurisdiction to Flagler, County, Florida pursuant to 23 Pa. C.S. § 5427 is GRANTED.

**Northampton County Bar Association**

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