

1992

Kathy Mary Ann Stewart v. Wayne Lloyd Stewart : Brief of Appellant

Utah Court of Appeals

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COURT

APPEALS FOR THE STATE OF UTAH

KATHY MARY ANN STEWART,
Plaintiff/Respondent,

vs.

WAYNE LLOYD STEWART,
Defendant/Appellant.

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:
:

Case No. 920369-CA

Pr

BRIEF OF DEFENDANT-APPELLANT WAYNE LLOYD STEWART

APPEAL FROM THE SIXTH JUDICIAL DISTRICT OF SANPETE COUNTY,

STATE OF UTAH

HONORABLE DON V. TIERS DEE

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DETERMINATIVE CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES AND

RULES

Utah Code Annotated, 30-3-5 (4), "In determining visitation rights of parents, grandparents, and other relatives, the court shall consider the welfare of the child."

Utah Code Annotated, 78-45-7.5 (5) (c), "Historical and current earnings shall be used to determine whether an underemployment or overemployment situation exists."

Utah Code Annotated, 78-45-7.14 , BASE COMBINED CHILD SUPPORT OBLIGATION TABLE (attached hereto).

BASE COMBINED CHILD SUPPORT OBLIGATION TABLE (BOTH PARENTS)

(Adjusted for FICA, and Federal and State Taxes)

Combined Adjusted Gross Income	NUMBER OF CHILDREN									
	1	2	3	4	5	6	7	8	9	10
0 - 199	20	28	30	31	32	33	34	35	35	36
200 - 224	23	34	35	35	36	36	37	38	38	39
225 - 249	25	38	39	39	40	40	41	41	42	42
250 - 274	28	42	43	43	44	45	46	46	47	48
275 - 299	51	67	67	68	69	69	70	70	71	71
300 - 324	56	73	73	74	75	76	76	83	84	85
325 - 349	60	78	79	80	81	82	83	83	85	86
350 - 374	65	84	85	86	87	88	89	89	90	91
375 - 399	69	90	91	92	93	94	95	96	97	98
400 - 424	74	96	97	98	99	100	101	102	103	104
425 - 449	78	102	103	104	105	106	107	108	109	110
450 - 474	83	108	109	110	111	112	113	114	116	117
475 - 499	87	114	115	116	117	118	120	121	122	123
500 - 524	92	120	121	122	123	125	126	127	128	129
525 - 549	96	126	127	128	129	131	132	133	135	136
550 - 574	100	131	133	134	135	137	138	139	141	142
575 - 599	105	137	139	140	141	143	144	146	147	149
600 - 624	109	143	145	146	148	149	150	152	153	155
625 - 649	114	149	151	152	154	155	157	158	160	161
650 - 674	118	155	157	158	160	161	163	164	166	168
675 - 699	123	161	162	164	166	167	169	171	172	174
700 - 724	127	167	168	170	172	174	175	177	179	180
725 - 749	132	173	174	176	178	180	181	183	185	187
750 - 774	136	178	180	182	184	186	188	189	191	193
775 - 799	141	184	186	188	190	192	194	196	198	199
800 - 824	145	190	192	194	196	198	200	202	204	206
825 - 849	167	214	218	220	222	224	226	228	230	233
850 - 874	168	220	229	233	235	237	239	242	245	247
875 - 899	169	226	241	245	247	250	252	255	259	262
900 - 924	171	232	252	258	260	263	266	269	273	277
925 - 949	172	238	263	270	273	276	279	283	287	292
950 - 974	173	244	275	283	285	288	292	296	301	307
975 - 999	174	250	286	295	298	301	305	310	315	321
1,000 - 1,049	176	256	298	308	311	314	318	323	329	336
1,050 - 1,099	178	268	321	333	336	340	345	350	357	366
1,100 - 1,149	181	280	344	358	362	366	371	378	386	395
1,150 - 1,199	183	292	367	383	387	392	397	405	414	425
1,200 - 1,249	184	296	379	399	404	410	417	425	436	448
1,250 - 1,299	185	304	390	413	423	432	442	452	463	477
1,300 - 1,349	190	312	400	428	441	454	466	478	491	505
1,350 - 1,399	195	320	410	442	460	476	491	505	519	534
1,400 - 1,449	200	328	421	457	479	498	515	531	547	562
1,450 - 1,499	205	336	431	471	497	520	540	558	575	591
1,500 - 1,549	210	345	441	486	516	542	564	584	602	620
1,550 - 1,599	215	353	452	501	535	564	589	611	630	648
1,600 - 1,649	219	361	462	515	554	586	613	637	658	677
1,650 - 1,699	224	369	473	530	572	608	638	664	686	705
1,700 - 1,749	229	377	483	544	591	630	663	690	714	734
1,750 - 1,799	234	385	493	559	610	652	687	717	742	763
1,800 - 1,849	239	393	504	574	628	674	712	743	769	791
1,850 - 1,899	252	408	522	595	654	702	742	775	802	825
1,900 - 1,949	256	416	532	606	665	715	755	789	817	840
1,950 - 1,999	259	423	541	617	677	728	769	804	832	856
2,000 - 2,099	262	428	546	627	687	738	771	806	835	859
2,100 - 2,199	265	432	557	637	701	754	798	835	865	890
2,200 - 2,299	267	447	576	659	725	780	825	863	895	921
2,300 - 2,399	275	461	595	680	749	805	853	892	925	952
2,400 - 2,499	283	476	614	702	772	831	880	921	955	983
2,500 - 2,599	285	482	625	715	788	849	899	942	977	1,006
2,600 - 2,699	290	497	644	737	812	875	927	970	1,007	1,037
2,700 - 2,799	298	511	663	758	836	900	954	999	1,037	1,068
2,800 - 2,899	313	532	689	787	866	932	988	1,034	1,073	1,105
2,900 - 2,999	321	547	708	809	890	959	1,016	1,063	1,103	1,136
3,000 - 3,099	330	562	728	831	915	985	1,043	1,092	1,133	1,167
3,100 - 3,199	339	577	747	853	939	1,011	1,071	1,121	1,163	1,197

Combined Adjusted Gross Income	NUMBER OF CHILDREN									
	1	2	3	4	5	6	7	8	9	10
3,200 - 3,299	348	592	766	875	963	1,037	1,098	1,150	1,192	1,228
3,300 - 3,399	357	607	786	897	988	1,063	1,125	1,179	1,222	1,259
3,400 - 3,499	366	622	805	920	1,012	1,089	1,154	1,207	1,252	1,290
3,500 - 3,599	375	637	824	942	1,036	1,115	1,181	1,236	1,282	1,320
3,600 - 3,699	384	653	844	964	1,061	1,142	1,209	1,265	1,312	1,351
3,700 - 3,799	393	668	863	986	1,085	1,168	1,237	1,294	1,342	1,382
3,800 - 3,899	402	683	882	1,008	1,109	1,194	1,264	1,323	1,372	1,412
3,900 - 3,999	419	706	909	1,038	1,142	1,228	1,300	1,360	1,410	1,452
4,000 - 4,099	427	720	928	1,060	1,166	1,254	1,328	1,389	1,440	1,483
4,100 - 4,199	435	735	947	1,082	1,190	1,280	1,355	1,418	1,470	1,514
4,200 - 4,299	443	749	966	1,103	1,214	1,306	1,383	1,447	1,501	1,545
4,300 - 4,399	451	764	985	1,125	1,238	1,332	1,411	1,476	1,531	1,576
4,400 - 4,499	459	778	1,004	1,147	1,262	1,358	1,438	1,505	1,561	1,608
4,500 - 4,599	477	802	1,032	1,177	1,295	1,393	1,475	1,543	1,600	1,648
4,600 - 4,699	485	816	1,050	1,199	1,319	1,419	1,502	1,572	1,630	1,679
4,700 - 4,799	493	831	1,069	1,221	1,343	1,445	1,530	1,601	1,661	1,710
4,800 - 4,899	501	845	1,088	1,243	1,367	1,471	1,558	1,630	1,691	1,741
4,900 - 4,999	509	860	1,107	1,264	1,391	1,497	1,585	1,659	1,721	1,773
5,000 - 5,099	517	874	1,126	1,286	1,415	1,523	1,613	1,688	1,751	1,804
5,100 - 5,199	525	889	1,145	1,308	1,439	1,549	1,641	1,717	1,781	1,835
5,200 - 5,299	534	903	1,164	1,329	1,463	1,575	1,668	1,746	1,812	1,866
5,300 - 5,399	564	939	1,203	1,372	1,508	1,621	1,716	1,795	1,861	1,916
5,400 - 5,499	570	951	1,220	1,391	1,529	1,644	1,740	1,820	1,886	1,942
5,500 - 5,599	577	963	1,236	1,410	1,550	1,666	1,763	1,844	1,912	1,968
5,600 - 5,699	583	976	1,252	1,429	1,571	1,689	1,787	1,869	1,937	1,994
5,700 - 5,799	590	988	1,269	1,448	1,592	1,712	1,811	1,894	1,963	2,020
5,800 - 5,899	596	1,001	1,285	1,467	1,613	1,734	1,835	1,919	1,988	2,046
5,900 - 5,999	603	1,013	1,302	1,485	1,634	1,757	1,859	1,943	2,014	2,072
6,000 - 6,099	609	1,025	1,318	1,504	1,655	1,780	1,883	1,968	2,039	2,097
6,100 - 6,199	616	1,038	1,334	1,523	1,676	1,802	1,907	1,993	2,064	2,123
6,200 - 6,299	622	1,050	1,351	1,542	1,697	1,825	1,931	2,018	2,090	2,149
6,300 - 6,399	630	1,062	1,367	1,561	1,718	1,847	1,954	2,042	2,115	2,175
6,400 - 6,499	637	1,075	1,383	1,580	1,739	1,869	1,977	2,067	2,140	2,201
6,500 - 6,599	651	1,094	1,407	1,606	1,766	1,899	2,008	2,098	2,172	2,233
6,600 - 6,699	658	1,107	1,423	1,624	1,787	1,921	2,031	2,122	2,197	2,259
6,700 - 6,799	665	1,119	1,439	1,643	1,808	1,943	2,055	2,146	2,222	2,285
6,800 - 6,899	673	1,132	1,455	1,662	1,828	1,965	2,078	2,171	2,247	2,310
6,900 - 6,999	680	1,144	1,472	1,681	1,849	1,987	2,101	2,195	2,272	2,336
7,000 - 7,099	687	1,157	1,488	1,699	1,870	2,010	2,125	2,219	2,297	2,361
7,100 - 7,199	694	1,169	1,504	1,718	1,890	2,032	2,148	2,244	2,322	2,387
7,200 - 7,299	701	1,181	1,520	1,736	1,911	2,054	2,171	2,268	2,347	2,412
7,300 - 7,399	706	1,189	1,531	1,748	1,923	2,067	2,186	2,283	2,363	2,429
7,400 - 7,499	710	1,197	1,541	1,760	1,936	2,081	2,200	2,298	2,379	2,445
7,500 - 7,599	715	1,205	1,551	1,771	1,949	2,095	2,215	2,314	2,395	2,462
7,600 - 7,699	719	1,213	1,562	1,783	1,962	2,109	2,230	2,329	2,411	2,478
7,700 - 7,799	723	1,220	1,572	1,794	1,975	2,123	2,245	2,345	2,427	2,495
7,800 - 7,899	728	1,228	1,582	1,806	1,987	2,137	2,259	2,360	2,443	2,511
7,900 - 7,999	732	1,236	1,592	1,818	2,000	2,150	2,274	2,375	2,459	2,528
8,000 - 8,099	737	1,244	1,603	1,829	2,013	2,164	2,289	2,391	2,475	2,544
8,100 - 8,199	741	1,252	1,613	1,841	2,026	2,178	2,303	2,406	2,491	2,560
8,200 - 8,299	746	1,259	1,623	1,853	2,039	2,192	2,318	2,422	2,507	2,577
8,300 - 8,399	750	1,267	1,633	1,864	2,052	2,206	2,333	2,437	2,523	2,593
8,400 - 8,499	755	1,275	1,644	1,876	2,064	2,220	2,347	2,452	2,539	2,610
8,500 - 8,599	759	1,283	1,654	1,887	2,077	2,234	2,362	2,468	2,555	2,626
8,600 - 8,699	763	1,291	1,664	1,899	2,090	2,247	2,377	2,483	2,571	2,643
8,700 - 8,799	768	1,298	1,675	1,911	2,103	2,261	2,391	2,499	2,587	2,659
8,800 - 8,899	772	1,306	1,685	1,922	2,116	2,275	2,406	2,514	2,603	2,676
8,900 - 8,999	777	1,314	1,695	1,934	2,129	2,289	2,421	2,529	2,619	2,692
9,000 - 9,099	781	1,322	1,705	1,945	2,141	2,303	2,435	2,545	2,635	2,708
9,100 - 9,199	786	1,330	1,716	1,957	2,154	2,317	2,450	2,560	2,650	2,725
9,200 - 9,299	790	1,337	1,726	1,969	2,167	2,330	2,465	2,575	2,666	2,741
9,300 - 9,399	795	1,345	1,736	1,980	2,180	2,344	2,480	2,591	2,682	2,758
9,400 - 9,499	799	1,353	1,747	1,992	2,193	2,358	2,494	2,606	2,698	2,774
9,500 - 9,599	803	1,361	1,757	2,003	2,206	2,372	2,509	2,622	2,714	2,791
9,600 - 9,699	808	1,369	1,767	2,015	2,218	2,386	2,524	2,637	2,730	2,807
9,700 - 9,799	812	1,376	1,777	2,027	2,231	2,400	2,538	2,652	2,746	2,824
9,800 - 9,899	817	1,384	1,788	2,039	2,244	2,414	2,553	2,668	2,762	2,840
9,900 - 9,999	821	1,392	1,798	2,050	2,257	2,427	2,568	2,683	2,778	2,856

IN THE COURT OF APPEALS FOR THE STATE OF UTAH

KATHY MARY ANN STEWART,	:	
Plaintiff/Respondent,	:	Case No. 920369-CA
	:	
vs.	:	
	:	
WAYNE LLOYD STEWART,	:	
Defendant/Appellant.	:	Priority No. (16)

BRIEF OF DEFENDANT-APPELLANT WAYNE LLOYD STEWART

APPEAL FROM THE SIXTH JUDICIAL DISTRICT OF SANPETE COUNTY,
STATE OF UTAH
HONORABLE DON V. TIBBS PRESIDING

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JURISDICTIONAL STATEMENT AND CASE HISTORY

Jurisdiction lies with this Court pursuant to Utah Code Annotated Section 78-2a-3 (2) (h). Defendant brings this appeal from the Sixth Judicial District Court pursuant to a divorce trial, the Honorable Don V. Tibbs, presiding, wherein the final pleadings were entered on May 6, 1992.

STATEMENT OF ISSUES

Did the trial court commit reversible error determining visitation, child support, property division and alimony?

STATEMENT OF FACTS

The parties were married on August 7, 1982 and had two children as issue from the marriage relationship. The marital property consisted of real and personal property, a farming operation and a restaurant.

The matter was tried on February 20, 1992, wherein all matters were decided before the court including, custody, child support, division of marital property, spousal support, retirement benefits from the husband's full-time employment and the non custodial parent's visitation.

SUMMARY OF ARGUMENT

Appellant does not object to most of the division of property and the major issues concerning custody of the minor children and the major part of the order for visitation of the minor children. The court erred in resolving the following issues: Requiring the father to give advance notice when he wants to exercise visitation is not reasonable; the child support amount to

be paid by the father was derived by gross income of the father that was not correct; and respondent was awarded more than a fifty percent of the marital property without any specific finding as to the reason.

ARGUMENT

I. CHILD VISITATION FOR THE NON CUSTODIAL PARENT WAS NOT REASONABLE.

The trial court has great discretion in determining the reasonableness of visitation for the non custodial in complying with Utah Code Annotated Section 30-3-5 (4) "In determining visitation rights of parents, grandparents, and other relatives, the court shall consider the welfare of the child. Several district courts have developed standards for visitation. Attached hereto as Exhibit A is the Third District Court Standard Visitation Schedule. The Sixth District has not yet standardized the visitation schedule but it should consider the lead demonstrated by the other districts.

There is no finding that the noncustodial father has any problem with parenting skills or exhibits any traits that are prejudicial to the children. He therefore objects that he should have to give the mother any notice whatsoever that visitation is to take place. The assumption that the court makes is that he will not exercise visitation on alternating weekends very often, therefore he must give notice when he will exercise visitation. Such a conclusion is contrary to the purpose of maintaining a standard of visitation minimizing the communication between the

former spouses. By requiring an attentive father to communicate anything to a former spouse on a regular basis could generate continued ill will between the parties and affect the visitation of the minor children.

The court has required the father to communicate to the mother with forty-eight hours advance notice when he will exercise his visitation rights. It would be much more reasonable to require the noncustodial to give notice to the custodial parent when he will be unable to exercise his visitation rights.

Appellant also objects that the visitation order does not give him any continuous visitation time during the summer months. In referring to the standard visitation schedule of the Third District, it states, "6. Summer: (A) Summer - four weeks continuous. Custodial parent to have alternate weekends, holiday, and phone visits." Since there are no findings or evidence to show that the noncustodial parent is nothing but a caring father who wants to see his children as much as he can, he should be given a period during the summer months as is done in the other districts.

II. THE AWARD FOR CHILD SUPPORT IS INACCURATE BECAUSE THE CUSTODIAL PARENT'S INCOME WAS UNDERSTATED AND THE NONCUSTODIAL PARENT'S INCOME WAS OVERSTATED.

The Child Support Obligation Table as set forth in Utah Code Annotated 78-45-7.14 uses gross monthly income to determine the amount of child support payments to be paid to the custodial parent. In the Findings of Fact, paragraph 6. the custodial parent's gross monthly income is \$1,000.00 per month. The

Noncustodial parents's income was determined to be \$4,600.00 per month (see paragraph 7. of the Findings of Fact).

Utah Code Annotated 78-45-7.5 states the standard for computing gross monthly income for determining monthly child support payments. At paragraph 5 (c) it states, "Historical and current earnings shall be used to determine whether an underemployment or overemployment situation exists."

There was considerable testimony by appellant that the \$4,600.00 per month was an anomalous one-time surge in his income, not likely to be reproduced again. At page 147 of the transcript, line 16 the following is reported:

Q What is the basis of your pay?

A According to the contract, which ran out the 26th of January, 1992, \$3,357.00 per month.

Q. Now an exhibit has been introduced with an income showing some \$55,000.00 W-2 for the last year. Is that representative of what your income is?

A I've never made any more than what I made in 1990 and that was what, \$43, 299.00, I believe--\$44,399? One or the other.

Q In 1990?

A Yes.

Q And your income was how much?

A It was--I believe it was \$43,299.00, but it may have been \$42,399.00.

Q How do you account for the increase in income last year?

A We had a 262-ton transformer blow up over at work and I was

on pay from Sunday afternoon until Thursday afternoon at 3:30, around the clock pay. It was shift by four's and the way the overtime accumulated, I made \$6,100.00 in that.

Q And what is the overtime projection for this year?

A The power plant guarantees no overtime. In fact, they lean towards contracted out labor because they don't have to pay the benefits, the insurance and what all.

Q Now for the pay periods that you've had this year, how many has that been to this point of time?

A I've worked 10 hours overtime this year.

Defendant's closing argument stated the foregoing in detail at pages 277 to 279 in the transcript. The court was not persuaded and found that defendant's gross monthly income for calculating future child support payments was \$4,600.00 instead of \$3,357.00. It is for this reason historical earnings are allowed by the statute to determine under or over employment. This matter should be remanded to the trial court for a historical determination of gross income.

In addition, the award for alimony may be different from what was ordered by the court, if a proper amount for appellant's income were used. There is no specific finding that states the amount of income the court considered in determining alimony or a finding as to why it is to last for two years. Paragraph 12 of the Findings of Fact state only that plaintiff is in need of alimony and defendant has the ability to pay.

III. RESPONDENT WAS AWARDED AN INEQUITABLE SHARE OF THE

MARITAL ASSETS WITHOUT ANY FINDING IN SUPPORT THEREOF.

In determining whether the trial court erred in dividing property between the parties, the court in Hagan v. Hagan, 810 P.2d 478 (1991), cited a list of cases as follows, "On appeal, it is the burden of the party seeking to overturn the trial court's decision to "marshall the evidence in support of the findings and then demonstrate that despite this evidence, the trial court's findings are so lacking in support as to be 'against the clear weight of the evidence'. thus making them 'clearly erroneous.'"

The parties submitted a great deal of evidence to determine the value of the marital property. The valuation of items was found in the findings. Notwithstanding such valuation, respondent received her disproportionate with any specific finding as to why. The distribution of property was ordered as follows:

<u>ITEM</u>	<u>PARAGRAPH IN FINDINGS</u>	<u>VALUE</u>
To Respondent:		
Restaurant	six	\$70,000.00
Residence	eleven	\$17,600.00
Travel trailer	twenty-one	\$1,500.00
Mustang vehicle	twenty-three	\$3,000.00
Total		<hr/> \$92,100.00
To Appellant:		
Farm	ten	\$50,400.00
Retirement	fifteen	\$24,663.47
Ford 4X4	twenty-four	\$5,000.00
Total		<hr/> \$80,063.47

The above refers only to the items found in the Findings that contained a value. Other property is found therein that did not

show a value. That property was not included above.

In a addition to the to the inequitable division of marital property, the court failed to take into consideration appellant's separate property. At page 161 of the transcript, appellant stated that he had approximately \$20,000.00 in stocks before the parties were married. He sold \$26,000.00 of the stock to pay off the cafe which was awarded to respondent (see page 164). At pages 165 and 166, appellant testified that he owned a home prior to the marriage and he sold it for a net gain of \$10,000.00. The sum of \$6,500.00 of the proceeds were used to install a new roof on the cafe.

Not only is there an inequitable division in marital property in the amount of \$12,036.53, without any specific finding as to the reason, but the court did not credit appellant with any of his separate property in considering the distribution.

CONCLUSION

The evidence shows that appellant's right of visitation is limited and not reasonable and not in the best interests of the children. The computation of appellant's gross income for a child support award fails to take into consideration the one-time income surge that is not likely to be repeated. There are numerous items of personal property that were distributed that did not show a value. Those assets that were valued were distributed in an inequitable manner without any explanation by the court.

The matter should be remanded to the trial court for the purpose of ordering reasonable visitation, recomputing the child

support payment and to determine a more equitable distribution of the parties' assets.

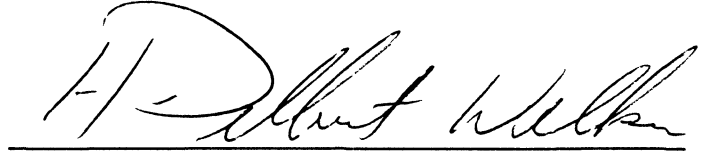
Dated this 5 day of October, 1992.

A handwritten signature in cursive script, appearing to read "H. Delbert Welker", written over a horizontal line.

H. Delbert Welker
Attorney for Appellant/Defendant

CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the foregoing Brief of Appellant/Defendant to Ellen Maycock, at 50 West 300 South, #800 Salt Lake City, Utah 84101 on this 5 day of October, 1992.

A handwritten signature in cursive script, appearing to read "H. Delbert Welker", written over a horizontal line.

THIRD DISTRICT COURT STANDARD VISITATION SCHEDULE

Reasonable visitation should be defined as the parents may agree. If they are not able to agree, the definition for school-age children (beginning kindergarten) will be as follows:

1. Alternate Weekends: Friday 6:00 p.m. to Sunday 6:00 p.m.
2. Midweek: Alternate Wednesday, 5:30 p.m. until 8:30 p.m.
3. Holidays:
 - (A) ***Christmas*** - Non-custodial parent to have Christmas day beginning at 1:00 p.m. and continuing through 1/2 of the child's total Christmas school vacation.
 - (B) ***Thanksgiving and Easter*** - Non-custodial parent to have Thanksgiving in even years (1990, 1992, etc.); Thanksgiving holiday is Wednesday 6:00 p.m. until Sunday 6:00 p.m. Non-custodial parent to have Easter in odd years (1991, 1993, etc.); Easter is Friday 6:00 p.m. until Sunday 6:00 p.m.
 - (C) ***Other Holidays*** - New Year's Day, Civil Rights Day, Presidents' Day, Memorial Day, July 4, July 24 and Labor Day. these are to be alternated with the non-custodial parent to have visitation beginning 6:00 p.m. the day before the holiday until 6:00 p.m. on the holiday.

Holidays take precedence over the weekend visitation, and no changes should be made to the regular rotation of the alternating weekend schedule.

4. Father's Day/
Mother's Day: As appropriate, 6:00 p.m. the day before until 6:00 p.m. the day of.
5. Birthdays: One evening, 5:30 p.m. until 8:30 p.m. during the week of the child's birthday, and the non-custodial parent's birthday.
6. Summer:
 - (A) Summer - four weeks continuous. Custodial parent to have alternate weekends, holiday, and phone visits.
 - (B) Two of the above four weeks visitation should be uninterrupted time for the non-custodial parent. The custodial parent should have an identical two week period of uninterrupted time during the children's summer vacation from school for purposes of vacation. The two week period of vacation should not interfere with any holiday visitation granted to the other parent under this schedule.
 - (C) Year-round School - two 2 week periods. Custodial parent to have holiday and phone visits.
 - (D) Notification of summer visitation or vacation weeks with children should be provided in writing to the other parent at least 30 days in advance.
7. Telephone: Reasonable, before 8:00 p.m.
8. Other times as agreed.