



BARTLETT, POLLOCK & BESK, PLLC  
Family Law Dispute Resolutions

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Ms. Virginia Onu  
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***Re: Kris Morness and Chie Kawabata Mediation/Arbitration***

Dear Ms. Onu and Ms. Pieratt:

As my recent correspondence indicated, I do understand that Ms. Onu is out of town until early June. However, it is my understanding that she has fully replied to all of the material involved in the Summer vacation issues. As such, I will go ahead and make the arbitration decision.

1. Mr. Morness' Summer Vacation. Mr. Morness has requested three weeks for vacation. Those being (1) Saturday, June 30, 2012, at 5:00 p.m. to Saturday, July 7, 2012 at 5:00 p.m., (2) Saturday, August 4, 2012, at 5:00 p.m. to Saturday, August 11, 2012 at 5:00 p.m. and (3) Saturday, August 18, 2012 at 5:00 p.m. to Saturday, August 25, 2012 at 5:00 p.m. The parties have reached an agreement that results in the exchange occurring on Saturday, rather than Friday as provided in the Parenting Plan. In the future, unless the parties agree otherwise, the exchanges will be on Friday. Ms. Kawabata does not have any objection to the proposed week of June 30, 2012 to July 7, 2012. She does oppose the remaining two weeks.

In looking at the calendar, if Mr. Morness' vacation requests were approved, he would have vacation from Saturday, August 4, 2012, until Saturday, August 11, 2012. In addition, his regular weekend is August 10, 2012 through August 13, 2012. This results in a ten day block. A ten day block was not considered in the Parenting Plan. The concept of the Parenting Plan is that Mr. Morness would have a seven day block, including his own weekend. As such, the exchanges would be on Friday to start his vacation and Friday to end his vacation with the first weekend being his

regularly scheduled weekend. His proposed week now results in him having a ten-day block.

If the parties want to do the exchange on Saturday, that is acceptable. However, the exchange then needs to begin with Mr. Morness' weekend and end Saturday of Ms. Kawabata's weekend. As such, Mr. Morness needs to reschedule his August 4, 2012, vacation.

As with the August 4, 2012, request, the Saturday, August 18, 2012, vacation also results in a ten day vacation block. Mr. Morness needs to reschedule the August 18, 2012, vacation so that it starts on a Saturday of his regular weekend and ends on Saturday of Ms. Kawabata's regular weekend.

2. Travel to Japan. Ms. Kawabata is asking that she be allowed to travel to Japan with Maximus to visit her mother on June 5, 2012 through June 14, 2012 and for two weeks in August. She did provide Mr. Morness sixty days written notice of her request. Mr. Morness objects to the travel. He suggests that if the travel is approved, that Ms. Kawabata either provide a bond, or be required to pay to him the amount due under the terms of the arbitration decision prior to her travel.

Ms. Kawabata's mother has recently been diagnosed with colon cancer. The information available is that the cancer is in stage four and has spread to her lungs. The prognosis is grim and her mother may have only six months to live. Ms. Kawabata wants to travel with Maximus to visit his grandmother before she dies.

Mr. Morness argues that the June trip is not during the Summer and therefore should be disallowed. The Parenting Plan provides that "upon completion of the school year" the parents are entitled to certain vacation provisions. Maximus is three and a half years old and is not currently in school. Given the exceptional circumstances, although technically June 5, 2012, may be a school date for public school, many people consider June to be part of the Summer.

Mr. Morness also argues that Ms. Kawabata is not trustworthy. He seems to argue that Ms. Kawabata has the burden of demonstrating that a bond or other conditions should not be placed on her with regard to travel. However, the burden is on Mr. Morness to show that there is credible basis to place restrictions on Ms. Kawabata's travel. He has not done so. There is no credible evidence, other than the fact that Ms. Kawabata is Japanese and has family in Japan, that would indicate that she is a flight risk or that she would not return with Maximus at the end of her visit.

Mr. Morness also suggests that before Ms. Kawabata is allowed to travel that she pay him the funds due under the Property Settlement provision of the arbitration decision. I will reserve this issue until I hear from Ms. Kawabata with regard to the transfer. I am aware that the deadline for entry of final documents has been extended to July 1, 2012. I am not aware of any good reason why the funds could not be transferred immediately upon entry of the Decree. However, I do want to hear from Ms. Kawabata on this issue.

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Finding no bases to place any restrictions on Ms. Kawabata's travels, she will be allowed to travel to Japan with Maximus the week of June 5, 2012 through June 14, 2012. Because of the ongoing scheduling problems regarding Mr. Morness' vacation schedule, I am having some trouble finding two weeks in August for Ms. Kawabata to travel. I assume Mr. Morness will want to reschedule his vacations. I do not know if he would want his vacation to begin on July 28, 2012, or August 18, 2012. Depending on when he plans to take his vacation, there should be a two week block either in late July/early August or late August to take the trip to Japan with Maximus. Mr. Morness should make his revised vacation request by May 21, 2012.

3. Flexibility. Ms. Kawabata is requesting flexibility with regard to the exchange time. The Parenting Plan is clear and unambiguous that the exchanges are to occur at 5:00 p.m. on Friday and Monday. Whereas common sense would indicate that either party may occasionally be a little late due to traffic conditions, such tardiness should not become the norm. Each party should make sufficient travel plans so as not to be late. Being late puts an unnecessary burden on the waiting parent and on Maximus if he is having to wait at the exchange point for the parent to pick him up. I will not change the provisions of the Parenting Plan. If a parent is chronically late, it will be up to the other parent to decide whether enforcement action should be taken. At this time, no change will be made to the terms of the Parenting Plan.
4. Attorney Fees. Each party shall be responsible for his/her own attorney's fees incurred in this proceeding and each shall pay one-half of the arbitration fees.

If you need this arbitration in a format for filing, please let me know. Otherwise, I assume this letter will suffice.

Very truly yours,

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