

April 6, 2004

COMMONWEALTH OF MASSACHUSETTS

Hampshire Division

Probate & Family Court
Docket No. 96D0228DV2

CHERYL R. DUVAL,
Plaintiff

v.
TIMOTHY D. SYMINGTON,
Defendant

AFFIDAVIT OF CHERYL R. DUVAL

I, Cheryl R. Duval, on oath do depose and say:

1. My name is Cheryl Duval, formerly Cheryl Symington, and I make this affidavit in order to seek help in protecting my children, Connor and Jade Symington.
2. Over the past several months, Connor (age 9) and Jade (age 6) have become increasingly fearful of their father. They have expressed fear of their father when I am bringing them to him for visits. They have come home and cried while describing in great detail scenes of Timothy's explosions of anger both at them and in their presence during their visits with him. When they know that they will be seeing him they begin to get anxious, nervous, and apprehensive.
3. Timothy's anger was the reason he was ordered, as part of the divorce, to seek counseling. He told me he isn't going to counseling any more.
4. Connor and Jade's fear, anxiety and preoccupation with their father's anger has become more and more invasive in their daily lives at home, school and in social activities. Not only have they said that they do not feel safe when they are with him, but this situation has leached into their entire worlds. They are having trouble with sleeping, regressing to bedwetting, having difficulty eating, and functioning at school has become compromised.
5. It is clear that the children's care at Timothy's house is suffering in other ways as well. Timothy does not follow through with their daily medical needs. Jade has eczema, which sometimes becomes severe, all over her body. I gave Timothy a lotion to put on her rash outbreaks but he does not use it. Similarly, Connor's doctor has prescribed Melatonin to be given to him nightly, which his father does not give him when he sleeps there. Connor has a diagnosis of Asperger's Syndrome, which is a type of autism. This condition requires special attention to his routine and his emotional, mental and intellectual development, all of which have been neglected by his father.
6. On nights before the children are scheduled to see Timothy (and sometimes other nights too) Connor expresses his feelings about his father to me. Connor will talk at length about his feelings of "being afraid of Dad" and says "I want to spend more time with you instead." He

cries and asks me over and over if he can stay with me the next day when he's supposed to see his dad. Sometimes his emotions reach a level of such desperation that he is crying "I wish I had a different dad. Life would be better... Why can't I see Dad with Nana and Pa (Robert & Kenna Symington). When's it going to get better?"

7. Connor has described to his therapist, Margaret Kierstein and to me, a feeling he gets in his stomach when he thinks about time with his father. He says it hurts and feels like he "ate too much." This has caused him to eat less and sometimes to not eat at all.

8. An example of what the children are like when they return from their father's for a weekend occurred after the weekend of Friday, February 27th to Sunday, February 29th. On Sunday when they returned to my house, Connor had very dark circles under his eyes and he was acting extremely withdrawn. Jade's face looked puffy and her eyes were wide-eyed as she exclaimed abruptly, "We slept in Daddy's bed and he showed us a scary movie." It is typical for them to blurt out troubling news to me after a visit with their dad.

9. During the summer of 2003 after finding out from Timothy's parents that Timothy was having Connor and Jade sleep in his bed with him I begged him to please have the children sleep in their own bed. After I enlisted the help of his parents, Robert and Kenna Symington (who strongly agreed with my request), Timothy finally agreed to put Connor and Jade to bed in their own beds. It was frightening to me to hear that this behavior was still occurring. I talked with Jade and she told me that Timothy had showed them a movie, "Pee-Wee's Big Adventure", and that it had scared her and Connor a lot. I assured her that she would never watch it again. She hugged me, crying, saying, "Do you promise we'll never watch it again?" After I calmed Jade down and she settled in I approached Connor. He looked absolutely exhausted. When I asked him about it he looked at me in tears and said, "I can't talk about it right now." I said it was ok and that when he was ready that we could talk. When we were in the car that same evening on the way home from my parents' house Jade started talking about "sleeping in Daddy's bed." Connor interrupted her, shouting, "Jade! We can't talk about it!" I asked him, "Why not Connor? You both can talk about anything you want to talk about with me." He wouldn't look at me or answer. I reassured Jade that we would discuss it and that they should be able to tell me anything and everything that goes on in their lives. Later at home I spoke with Jade as I put her to bed and calmed her down before attending to Connor. As I was putting Connor to bed he said that they watched a scary movie and they slept in Timothy's bed. He wrapped his arms around me and cried. Connor rarely gets emotional and physically affectionate, partly due to his age and partly due to the Asperger's. It took all I had to not cry because it was clear he was frightened. I promised him that they would never watch the movie again. He told me that he felt like he was forced to watch it because Timothy showed it to them twice. He asked, "Can he force me to watch it again?" I told him I would make sure he would never watch it again. That night both children had difficulty sleeping. From that Sunday evening at dinnertime through Thursday night Connor barely ate anything. He said he couldn't eat his breakfast in the morning because he had that "terrible feeling" in his stomach. His lunch box came home full every day.

Connor told me on the Monday after that weekend that he was afraid to tell his dad that he didn't like the movie because he thought his father would get angry with him.

10. Jade was also visibly affected by the events of the weekend. The next day, Monday, when I told her they were going to their father's house after school she cried out, "NO!" and sobbed. She yelled out, "Why?! I want to stay with you!" I held her and told her it was just for a little while, that she wasn't sleeping over and that I would pick her and Connor up before bedtime. She clung to me and asked me if I was sure I'd be getting her to bring her home. It was heart wrenching to bring them to him knowing that both were fearful of him. After this, I scheduled an appointment for March 9th with a therapist for the children.

11. The transitions that occur when I bring Connor and Jade to Timothy have always been tense at best and at times explosive. I have experienced first hand the effects of Timothy's anger. There have been numerous episodes of Timothy expressing his anger (i.e., yelling, swearing, threatening me, obscene hand gestures, driving the car toward me) in front of the children when I am dropping them off. Timothy also exhibits bizarre behavior like wearing sunglasses during the days and evenings when I would pick up or drop off the children at his apartment. I started a notebook for us to write in and pass during these transitions. It was designed to reduce the exposure Connor and Jade have to Timothy's rage toward me. One recent episode of Timothy's anger directed toward me in front of the children happened in January of this year. While standing in his doorway waiting for Connor and Jade to get their coats on, Timothy angrily badgered me about my health. He said he was "concerned about my health" because he questioned my "ability to care for Connor and Jade." I assured him that was not an issue and began backing out of the doorway to shorten the conversation. It worried me that the children were being exposed again to his rage. He then raised his voice in a threatening manner and told me I'd "better get ready" because a sheriff was going to be looking for me. Connor was standing right beside me and after hearing that turned away and rushed to the car. I shut the door as he continued to shout.

12. I had hoped that his anger would never be directed at Connor and Jade, but now it is. I used the notebook to ask him to never show the movie again since it had so much affect on the children. I have had to repeatedly ask Timothy to be aware of the children's needs and not expose them to inappropriate television shows and movies. Recently I had to return a piece of pornographic material I found on his porch while dropping off the children, reminding him to be extra cautious about keeping these types of material around the children.

13. Connor continues to experience the pain he described in his stomach. He usually gets it on the evening prior to a scheduled visit. At dinner he will ask what the next day's routine is, is he going to dad's or staying home? When I tell him he is seeing dad his demeanor changes and he is unable to finish dinner. When Jade asks if she is seeing her father and I say yes her face falls and she whines and cries, saying "ohhh..., please no..."

14. We also discussed at length the issue of sleeping in their own beds. Using dolls, Connor and Jade explained to me how they sleep with their father and that it has been occurring on an ongoing basis. They told me that Jade wears pajamas, Connor wears only his underpants

and their father only wears underwear. I have tried to explain to them how important it is for them to sleep in their own beds. I wrote a note to Timothy telling him explicitly that he is not to have Connor and Jade sleep in his bed with him.

15. During the children's visits with Margaret Kierstein they told her that they are afraid of their father and that they want to spend less time with him. Connor was very clear in his expressions, explaining that he doesn't feel safe with his dad. He begged me not to write any of this to Timothy in the notebook because he is afraid of what his father will do if he finds out that he is afraid of his father. Connor has repeatedly asked what he should do if his father gets angry and yells at him. He says he doesn't know what to do when he is afraid of his dad. When I suggested that he ask his father to please stop yelling and tell him that he is afraid, Connor said, "He'll get mad even more." Connor then said, "Why does Daddy act like that? I thought he was supposed to be the grown up."

16. When the children are at their father's house he often shows them cartoons. During this school year it became apparent that watching cartoons during the school week creates a huge distraction for him during the school days. Due to Connor's Asperger's Syndrome he perseverates (repeats things he has heard) and withdraws socially, using images and lines from movies and cartoons. As a result, the staff at Connor's school requested he not watch these shows. Since the earlier part of this school year the rule for the children has been no cartoons during the school week, only a maximum of 30 minutes of educational television each day from Monday to Thursday. I told Timothy about this. Nevertheless, repeatedly Connor and Jade come home with stories about cartoons they see at their father's during the school week.

17. One example of many occurred on the evening of March 24th. As soon as Jade got into the car from being picked up after a visit with Timothy, she announced that they watched Sponge Bob (a cartoon). I asked them why. Connor said his dad had gotten a new Sponge Bob DVD and asked them if they wanted to watch it. Connor said he said "no" because "Mom says we can't watch cartoons on school nights." Connor then said his father said, "Don't tell Mom. Keep it a secret." Connor then asked me to please not write anything in the notebook about it because he was afraid his father would get mad at him. Connor and Jade have repeatedly said that Timothy has told them that he does not have to have the same rules because it is his house. They cry because he yells at them when they mention my fiancé's name and forbids them from saying my name or my fiancé's name in his house.

18. Another area of the children's lives that are affected is social activities. Timothy doesn't bring Connor to his scheduled swim lessons. He said his father tells him that he (Connor) needs a break from them, and he is afraid to argue with his father. Connor also worries about how his father will react and fears his anger in social settings. He asks questions like, "What if he doesn't want to bring me to swimming?" and "What if he gets mad and yells because Jade can't come to Science Night (for fourth graders)?"

19. Connor and Jade have repeatedly asked to spend less time with their father and only to see him "with other people". They continue to express and show signs of fear and intimidation of their father. They are very anxious prior to their visits with him and tearful,

exhausted and withdrawn after every visit with him. Having experienced (and now knowing the current occurrences) of Timothy's unpredictable and violent outbursts I fear for Connor and Jade's safety. I need help in ensuring they are safe. I need the Court's help to create the visitation restrictions and environment the children are so urgently seeking.

Signed under the pains and penalties of perjury this en day of April 2004.

Cheryl R Duval
Cheryl R. Duval

Response to Affidavit by Cheryl R. Duval

1. No response.

2. Connor and Jade have never expressed fear towards me in any way and have verbalized displeasure and sadness at having to be taken back to their mother.

3. Cheryl was insistent that I seek therapy for anger management. When the divorce was in the process of being negotiated and finalized, I was in therapy with Reed Schimmelfing of Northampton. I stopped seeing Reed because he declined my health insurance, and I started seeing Sheryl Knopf in West Springfield. When I questioned both Reed and Sheryl during therapy whether or not I was in any way a candidate for anger management counseling, they emphatically replied that I never needed it. Cheryl Duval once asked for proof that I was still in counseling, and I taped an appointment card to the notebook. She never asked after that. The therapy has only continued because of my wishes, not Cheryl's or the court's.

4. Cheryl has never alerted me to any problems either child has ever had at school. Also, in my care, the children have never had problems with sleeping or eating. They have never wet their beds in my home. Cheryl has never alerted me to any of these supposed difficulties before, even when they were dropped off for weekend visits.

5. I have never forgotten to give Connor his melatonin or Jade her eczema lotion. I have been witnessed by others giving them any medication they have ever needed, including daily vitamins and fluoride. When they go to bed at night, their teeth are brushed, and after they have breakfast, their teeth are brushed. Their clothes are always clean, and they are always bathed and in their pajamas on the nights that they have baths scheduled.

6. Connor often expresses a desire to stay with me, especially after a weekend with me or a long week's vacation. They get used to living with me, and I have to explain to him several times when he has to go. He is not comfortable with any kind of transition. Jade also expresses disappointment, and I have to "psych" them up to go back to their mother by telling them they will see their dog soon and sleep in their own beds. They are also reassured when we go to the calendar and they can see when they will be with me again.

7. Connor has described a feeling like his stomach hurts to me. Sometimes when he comes over he gets under the covers of his bed. When I have asked him about it, he says that he hates school. Cheryl has never told me of any problems he has been having at school. Connor, even in kindergarten, often came home without eating his lunch. He has been dropped off to me several times with his lunch bag untouched.

8, 9, & 10. The weekend of February 27-29 can be explained as follows. I purchased the DVD "Pee-Wee's Big Adventure" for the kids to watch when they came over. I had talked about it with them before, and I figured that Pee-Wee's larger-than-life silly humor would appeal to them. They both really enjoyed the movie, but Jade was scared by one face a character made ("Large Marge"). That night Jade asked to sleep in my bed because the face bothered her. It was the first time since August that she had asked to sleep with me, so I let her (Connor got into the bed in the middle of the night, which is common for him to do). The next day Jade asked if she could watch the movie again, and Connor was also eager. Jade walked out of the room when the scary face appeared (Connor actually asked me to pause the movie so that he could look at the face closely), and once it was over she came right back and sat down. After the movie, the kids asked me to play the song "Tequila," which is in the movie. We danced to it several times!

Cheryl never asked me for details about the movie. She told me three days later that Connor was really bothered by it and that she had taken him to a therapist (she did not say that Jade was also in therapy).

When the kids came to me later in the week, I offered to break the DVD in their presence. I did so, and they were very happy.

11. To date, I have never threatened Cheryl with violence, and there has never been any swearing at her in front of the kids or obscene hand gestures, ever. One day when I was picking up Connor after CCD outside of the church, I was about to drive to Rhode Island to visit my brother and his family. Cheryl was insistent that I return by a specific time, and I told her that I was not sure that I would be able to. She stood in front of my car so that I could not leave until I agreed to the time she wanted. I have complied with the notebook, and it has been good for the most part. I did ask Cheryl once if it would be possible to wean ourselves off of it by talking on the phone on Sunday evenings about the kids in the past week and the future. She agreed to consider it, but nothing has been done since. The recent event Cheryl mentioned here is as follows: I had already sent Cheryl two letters asking to talk about possible changes and other concerns (her health in particular). When I mentioned her MS, she became somewhat hostile and kept saying that I would have to go through her lawyer. I told her that I did not want to go about it the hard way, in the courts. I told her that I would have to have a sheriff serve her papers for a modification of the divorce decree, and she said that was fine. This conversation took place outside on the porch to my house, and Connor was behind the door. I came back inside to finish getting his snowpants on, and I told Cheryl that I did not want it to go this way, and that it was her choice. Neither Cheryl nor I yelled or raised our voices at any point, and Cheryl and the kids never rushed to the car.

12. I have always made it a point to tell Cheryl if the kids would see a questionable movie with me. Sometimes I have seen movies alone to make sure they would be appropriate for the kids, and Cheryl has often been made aware of this. If we hear from other sources about a particular movie, we had told each other about what we have heard. They have never seen a PG-13 movie in my care, and I make sure that any PG movies are appropriate.

Cheryl has mailed a page from a pornographic magazine to me in January, along with a letter stating that she found it on my porch and that she wrote, "I hope that you are not exposing my children to this part of your life." (this is not the first time in our relationship Cheryl has made accusations regarding my sexuality. She accused me of going to gay bars when we were married). I immediately showed the material and letter to my landlord and my parents. Fearing that she would plant something else on the property, I set up future pick-ups and drop-offs at Barnes and Noble Bookstore in Holyoke.

13. Cheryl has never talked to me about any alleged eating problems the kids might have.

14. Connor and Jade have had some difficulties establishing a sleeping routine in the past. Connor often paces and fidgets before he is relaxed enough to sleep (the melatonin helps with this). Before the final separation and divorce, the "family bed" concept was a matter of contention. Cheryl always had Jade sleeping in the bed with us, and Connor would invariably join in. Before I left, Jade had never had a full night sleeping in her own bed if the two of us were at home.

I got a trundle bed from my parents when I got the new apartment and set it up in their room. Many times when I would try to get the kids to sleep in their own beds, both kids would end up sneaking into my bed. Other times Connor would fidget and pace until almost midnight, and then he would be exhausted the next day. It became easier to have them start off sleeping in my bed so that they could get a healthy amount of sleep.

During the summer, the only room with a functioning air conditioner was my bedroom, and so naturally we all slept in there, or sometimes I would fall asleep on the couch in front of a fan. When Cheryl heard about this, she offered her old air conditioner for their room, but unfortunately it never worked. After this past summer (2003), when it got cooler, I made it a point that the children stay in their own beds, which they did successfully. One reason for my getting the new apartment was so that they would each have their own space and beds.

As far as sleeping attire goes, I wear running shorts in the summer and pajamas or sweats in the winter. Jade wears pajamas, and Connor always starts off with proper pajamas, but he ends up taking them off under the covers.

15. When I have questioned Connor about what he fears, he became very confused. He said that he did not like it when I slammed doors when angry. I said, "Connor, have you ever seen Daddy slamming doors?" He thought about it and replied in the negative. Then Connor, Jade and I got into a discussion about how to properly express emotions like anger or frustration. I told them that it is okay for people to be upset, as long as they don't hurt others.

16. I have done my best at making sure the television is off during the week, especially after Cheryl told me about what affect cartoons were having on the kids. There is no tv or music when Connor works on his homework. Sometimes the kids are allowed to watch a half hour of "Arthur"

17. The event of March 24 was a judgement call on my part. Connor had finished his homework for the afternoon, and both kids cleaned their rooms and ate dinner. I decided on my own to let them watch one cartoon from a new "SpongeBob" DVD (total of ten minutes).

I have never told the kids that the rules are different at Mom's house and Dad's house. When Connor was being punished for hitting his sister last year, Cheryl took away all tv priveleges for two weeks. Connor asked during that time if he could watch tv at my house, and I told him that the punishment was for both houses.

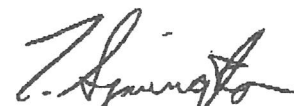
I have never yelled at the kids regarding Cheryl's fiance, Paul. The only mistake I have made in that regard was when the kids first told me their mother was dating a man named Paul. I told them I did not want to talk about him. I quickly regretted that action and have asked the kids many questions about him and encouraged them to talk about him. They have not felt uncomfortable telling me what they do with Paul.

18. I have never missed any of Connor's swimming lessons, although I have been honest with Cheryl about the quality of the lessons (as a former swim instructor, the program Connor is in is one of the worst I have ever seen). One day Connor complained about having to be bundled-up and hussled out of the house to go to a swim lesson, and I said it was too bad he couldn't take a break from the schedule and just relax. When I wrote about the schedule for both kids and the constant driving around having a negative effect on the kids, she replied simply that they do it all the time and are used to it.

I did, however, miss one of Jade's ballet lessons. On the Friday evening before the lesson (March 26), Connor had a sleep-over at his uncle's house in Springfield, and Jade had a sleep-over at her cousin's house in Agawam. It was too difficult to arrange a time to pick both of them up and get back to Southampton in time for the class.

19. Connor and Jade have not often asked about seeing my parents. They do constantly ask to see my girlfriend Bonnie and her daughter Nicole, or Jade asks to see her cousin Samantha. The kids do become very excited when my parents visit, or we visit them.

Date: 4-14-04


Timothy D. Symington
261 Hillside Avenue
Holyoke, MA 01040
(413) 536-7525


AFFIDAVIT OF MARILYN DUVAL, MATERNAL GRANDMOTHER

I Marilyn Duval make this affidavit:

1. My name is Marilyn Duval and I am the maternal grandmother of Connor and Jade Symington. I live locally, and I have been an active participant in the children's lives since their birth. I have often cared for them when my daughter Cheryl has worked or has other activities, both during her marriage to Timothy Symington and also since the divorce.
2. Over the past several months, I have watched Connor and Jade become quiet, sad and introverted.
3. I have, on several recent occasions, picked them up from school. Instead of describing their day at school with their usual excitement, they have been preoccupied with their experiences with their father. They will look sullen, angry or fearful when talking about this. They have argued with one another about what to say or keep secret about what goes on at his house.
4. [REDACTED] Discussion about the right to talk ensued and it was evident that they are very confused about the issue.
4. [REDACTED] Connor then asked, "Why can't Dad be the adult? Why do I have to be?"
5. On a third ride home, Connor and Jade talked about wanting to see Daddy with Nana and Pa and not alone. They expressed fear at his getting mad at them and not knowing what to do when they were alone with him.
6. Connor and Jade were with us at our home on Friday, April 16, 2004 when Cheryl called from work to tell us that their father, Timothy, would have the opportunity to take them for a 5-day supervised visit beginning the following Wednesday. She requested that we tell Connor and Jade about this possibility. We sat down with Connor and Jade and explained to them that they might spend five days with Daddy and Nana and Pa (his parents) next week. [REDACTED]
[REDACTED] Connor immediately said, "I want to go with Nana and Pa but not with Dad."

7. Connor and Jade by nature are generally happy, giggling children who are inquisitive, love to play pretend, tell jokes, like to run free and are free with their hugs. During these last few months, they have become withdrawn, nervous, seemed reluctant to get close and have not laughed much.

Signed under the pains and penalties of perjury this 20th day of April, 2004


Marilyn Duval

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

4/13/07

Hampshire Division

Probate and Family Court
Docket No. 96D0228DV2

CHERYL R. DUVAL,
Plaintiff

v.
TIMOTHY D. SYMINGTON
Defendant

AFFIDAVIT OF
DR. MARGARET KIERSTEIN

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use
Paul's
name w/
TS*

I, Dr. Margaret Kierstein, do depose and state the following:

1. I am a psychologist who is licensed to practice in Massachusetts.

2. I specialize in cases involving child custody and visitation, including the need for supervised visitation; families involved in high-conflict divorce; the abuse of children, which includes emotional, physical, sexual abuse, and neglect; and the psychotherapy of children, adults and families. I have twenty-six years of experience working with such families and children.

3. At the request of the children's mother, Cheryl Duval, I have met with both Connor and Jade Symington, meeting with each child individually on two occasions for a total of approximately two hours per child.

4. During my interviews with Connor Symington, age 9, he described the following:

i. His father showed him the movie Pee Wee's Big Adventure on two occasions which left him feeling very scared and frightened. He was too embarrassed to tell his father, but told his mother.

ii. As a result of seeing this movie he has repeatedly felt sick in his stomach and has had nervous feelings. His father also tells him there might be ghosts, which also scares him. Connor repeatedly has these sick and nervous feelings because he wants to spend more time with his mother and less time with his father. Connor is afraid to tell his father this, but tells his mother he wants to spend less time on the weekends with dad.

iii. Connor feels he can not tell his father things about how he feels, but can only tell his mother. When he is with his mother he reports "she cares about me" and he feels better with her, and when he is with his father he feels his father is "overly dramatic," with his father not wanting him to talk about his home at his

mother's, his toys there, or for Connor to talk about Paul, who will be his step-father.

iv. Connor reported his father yells and gets mad at him, and wants Connor to like his house better than his mother's house. Connor is very worried about his father's jealousy. Connor feels his father says things he doesn't want him to say, and asks Connor about his mother and Paul. His mother says that his father shouldn't question him about them, but his father says he can ask him anything he wants to.

v. Connor is confused by the discrepancies between what his father says and what his mother says, particularly about his sleeping in bed with his father. His mother says he should sleep in his own bed, and his father says it's okay for Connor to sleep in bed with him.

vi. Connor requested that during his visits with his father he wanted his paternal grandparents, Nanna and Pa, to be present.

5. During my interviews with Jade Symington, age 6, she described the following:

i. Her father showed her the movie Pee Wee's Big Adventure on two occasions which caused her to have bad dreams and be very scared. Her mother then talked to her father about how Jade felt and her father broke the movie and threw it in the trash. The movie continues to "come up in my head a lot, and when I think about Dad's house and the DVD I feel scared." She is unable to talk to her father about how she feels.

ii. Her father yells at her and her brother a lot, and this scares her. Jade reported he yells things like "nothing matters," and she doesn't know what this means. When her father is mad his voice is very scary, and he yelled at her and Connor about the movie because she wouldn't watch it and hid her face. When her father gets mad he says, "Leave me alone."

iii. Jade can not talk to her father about her life at home with her mother. If she even says, "Mom and I went to the store" her father will get angry. She is unable to mention her mother at all, and this is hard for her. She can not talk about Paul either, and her father gets mad and says that "he's our only father." Jade and Connor just listen to him say this, but they don't think it's true since Paul will be their stepfather. She feels scared by the things her father says about her mother, reporting that he says "bad words" and he tells her mother that she's stupid. Jade reported that her mother does not say bad things about their father.

iv. Jade talked about the book that each of her parents write in that goes back and forth between households. She relayed that her father gets mad when he reads it and then yells at her and her brother. She doesn't know why he's so angry or why he yells at her and her brother, and she wishes she could play with her father verses his yelling at them.

6. It is my professional opinion, based on what Connor and Jade Symington each reported to me during my interviews with them, that they are very anxious about and seriously distressed by their contact with their father. As a psychologist with twenty six years of experience working with children and families, continuing visitation as it currently is, is contra-indicated. Based on the children's reports and the ways they each described their father's behaviors, they are frightened by his anger and outbursts, apprehensive about what he will do, experience him as scary, either through his unpredictable anger and related behaviors or the kinds of things he exposes them to, and they each feel placed in an untenable situation where they must pretend they have no mother or other home and family. This is a destructive and unworkable situation for any child, and the combination of their father's emotional lability and outbursts, his poor judgement as to what is age appropriate for his children, and his placing them in an untenable loyalty bind, raises serious questions about whether visitation that is not monitored and supervised is in these children's best interests.

While I have not interviewed Mr. Symington, both children were interviewed individually, and each described very similar experiences and incidences with their father. They were both assessed to be accurate reporters and were very guileless and genuine in their presentations. They both reported being traumatized by the movie their father had exposed them to, to the point of having repeated images, fears and bad dreams related to this movie. They both reported being scared of him, both reported being yelled at frequently by him, both described being unable to tell him their feelings or talk about anything that might upset him, and both felt unable to speak about their mother or their home life with her, fearing his anger, jealousy or wrath.

Thus, until such time as Mr. Symington's mental health status and parental competence are assessed, it would be in the children's best interests for their contact with their father to be supervised so that the children can be protected from his outbursts, poor judgement, and the untenable loyalty binds he places them in. While both children suffer under their current visitation with their father, Connor has less resilience than his sister due his Asperger's Syndrome diagnosis. This makes him in greater need of consistency, reliability, and predictable emotional situations. Jade too has these needs, but she appears a little better able to ignore some of her father's outbursts, while Connor, being a very concrete thinker, takes them deeply to heart, feeling emotionally paralyzed by them, very anxious and increasingly confused.

The above is true to the best of my information and belief and is signed under the pains and penalties of perjury this 13th day of April, 2004.

Respectfully submitted,

Dr. Margaret Kierstein
Dr. Margaret Kierstein

R.K.F.Ryan Road School
498 Ryan Road
Florence, MA 01062

April 15, 2004

Attorney Linda S. Fidnick
190 University Drive
Amherst, MA 01002

Dear Attorney Linda S. Fidnick,

Jade Symington is a kindergarten student at the R.K.F. Ryan Road School. She has a very pleasant, outgoing and good-natured demeanor. I am writing to you secondary to concerns of Cheryl Duval, Jade's mother and myself with changes noted in Jade's disposition.

Ms. Duval and I have been in contact recently regarding Jade's frequent complaints of stomachaches, headaches, and general malaise. It has been noted with Jade's mother that the symptoms are short-lived after a bit of rest in the health office. However, Jade's last health office visit was concerning for the following reasons.

On April 9, 2004, Jade came to the health office afraid of a dream that had occurred at rest time in the classroom. Jade stated that she had been having the bad dreams at home, but now the dreams are occurring in school. Jade was specific in her explanation of the dream. She stated that she sees a toy with a happy smile and mean eyes, with hands that pinch her. This is the first time in which Jade had expressed this fear to me. I spoke with her teacher, Mrs. Smiarowski, and Jade had also expressed her fears to her. I called Ms. Duval and discussed this with her. Ms. Duval had stated that this is consistent with the dreams happening at home. Secondary to the stresses placed on Jade, Ms. Duval stated that Jade and her brother are both receiving counseling outside of the school setting. As noted above, Jade's disposition has changed, in that she is not exhibiting such carefree expressions and has become increasingly aware of her dreams.

Thank you for your attention. If I can so more to support Jade during this difficult time, please call me at 1-413-587-1557.

Respectfully,



Lisa Safron BSN, RN
School Nurse
R.K.F.Ryan Road School

cc: Cheryl Duval

17 April 2004

Linda Fidnick, Esquire
Burres Fidnick Booth & Kaufman, LLP
190 University Drive
Amherst, MA 01002

Re: Duval vs. Symington Docket # 96D0228DV2

Dear Ms. Fidnick:

Kindly use this letter as my affidavit regarding matters related to Jade and Connor Symington.

- 1) I am engaged to be married to Cheryl Duval. I stay frequently at the home of Cheryl, Jade and Connor in Southampton.
- 2) On numerous occasions I have witnessed the children arriving home from a visit with their father, being exhausted from a lack of sleep and being in a state of emotional distress characterized by Connor and Jade's social withdrawal at home – staring off into the distance with vacant, haunting eyes. After the vast majority of visits, it will take each child (Connor more so) an hour to begin to re-emerge as the happy, vibrant children I know them to be.
- 3) I witnessed Connor's inability to eat for several days after the movie incident with Timothy Symington. I witnessed Connor's fear that his father would "force" him to watch it again. I witnessed and heard Connor's repeated pleadings with his mother over the course of several days to not be forced by his father to do things he didn't want to do.
- 4) I witnessed Jade Symington return from a family vacation last summer with Timothy Symington with a severe sunburn on her back.
- 5) I have witnessed Connor return from many evening visits perseverating about the cartoons and movies he had watched on school nights at the direction of Timothy Symington.

- 6) I witnessed Connor's injured leg as a result of Timothy Symington not heeding the advice of Cheryl to clear the ice from his front porch when she dropped the children off. Connor later fell on the ice and injured himself.
- 7) I witnessed Connor's spoken and physical display of anger at his father's phone message saying that Cheryl was "full of shit", that he hoped she was recording the call and that he would not see the children in a supervised setting.
- 8) I have witnessed Connor ask me over and over again, crying and pleading why his father smashed the glass in his presence when Timothy was still living with them and why the police came that night.
- 9) I have witnessed Connor and Jade suffer from nocturnal enuresis over the past months after returning home from weekends with Timothy Symington.
- 10) I have heard Connor and Jade express their helplessness and fear of their father's rage many times.
- 11) I have heard Connor say he wants to come to court to prove to the Judge that his father is lying to the Court about not yelling at him and giving him his melatonin each night.
- 12) I have witnessed Connor's spoken fear about his father's rage if Connor disobeys his father's demands that Connor sleep in bed with him in his underwear.
- 13) I have witnessed Connor state emphatically that he does not want to be alone with his father because he is afraid of his father.
- 14) I have heard Connor state that he feels his father "must not love him" if his father doesn't want to see him unless it is unsupervised.

This represents a précis of what I have witnessed. I have signed this document under the pains and penalty of perjury this 17th day of April 2004 and sent it via US mail to you for your handling and delivery to the Court because I will be out of the country from 18 April and will return on 26 April.



Paul J. Silvernail
20 Joan Street
Wilbraham, MA 01095

COMMONWEALTH OF MASSACHUSETTS

Hampshire Division

Probate & Family Court
Docket No. 96D0228DV2

CHERYL R. DUVAL,
Plaintiff

v.

TIMOTHY D. SYMINGTON ,
Defendant

AFFIDAVIT OF CHERYL DUVAL
Dated May 6, 2004

My name is Cheryl Duval, and I am the plaintiff in this matter. I am writing this affidavit to update the Court.

This is a chronology of what has happened with regard to our children since April 7, 2004:

April 7, 2004

Timothy Symington called my home, left a message on the answering machine, swearing and stating, "Don't bother bringing the kids to me because I refuse to be supervised." Our child Connor played and heard this message.

April 9, 2004

Timothy called my home, left a message saying that he had gone to Barnes & Noble (our original meeting place to transition the children for visits) and waited for Connor, Jade and I to come. He said he would come to my home Saturday morning at 9:00 A.M. to pick up Connor and Jade. Timothy has never been to my home in Southamptton for visitation transitions. Since there have been numerous episodes in the past in which Timothy exploded in anger during transitions, I was frightened so I arranged for the children to be engaged in other activities away from home and I was not alone.

April 10, 2004

Timothy did not come to my home as he said he would.

April 11, 2004

Timothy called my home, left a message asking if he could see Connor and Jade on that day. I asked the children if they wanted to see him and they both said no. I suggested we call their dad so they could talk to him, hoping that this might be a way of making a connection between Timothy and the children, but they each said they did not want to talk to him. When I asked Connor why, he talked about Timothy's message he heard on the 7th and with an angry expression on his face he pointed at the phone machine and shouted, "How could he say a swear word like that!"

I called Kenna and told her that Connor and Jade did not want to see Timothy or talk on the phone with him.

April 14, 2004

Court appearance regarding Complaint for Modification, Timothy's attorney, Robert O'Leary stated that if Timothy's visits with Connor and Jade were to be ordered with supervision, then Timothy waives his rights of visitation.

April 16, 2004

I received the Temporary Order and called Linda Fidnick's office. I spoke with Attorney Oran Kaufman about the order, seeking advice regarding the scheduling of the children's following week of school vacation. He contacted Attorney O'Leary to ask if Timothy had plans regarding supervision of the 5 day vacation. After Attorney Kaufman and I spoke three times and he confirmed it with Attorney O'Leary, we agreed that Timothy had until 6:00 P.M. on Saturday, April 17th to make the arrangements for the vacation time if he chose to take the children. If that did not occur, it was understood that I would be away and therefore not able to communicate with Bob & Kenna Symington again until Thursday, April 22nd.

April 17, 2004

I do not receive any communication from Timothy, Bob or Kenna Symington.

April 22, 2004

When I returned home from vacation I received a phone message from Kenna Symington in which she said that Timothy had changed his mind and now would like to schedule a visit to see Connor and Jade under supervision. I called her back the same day. We made plans to meet the next day to discuss the arrangements for a visit for Connor and Jade to see their father.

April 23, 2004

Bob, Kenna, Marilyn Duval (my mother) and I met at the Symingtons' home. We made plans for a visit to occur on the following Sunday (April 25th). After our meeting I had my father, Roger Duval, bring the children to Robert and Kenna's house to spend time with them. During their time there, Kenna talked to Connor and Jade about the planned visit with their father on Sunday. Connor's body stiffened and he looked at Kenna with wide eyes, saying, "I don't know if I'm ready."

April 24, 2004

On Saturday evening, the night before the scheduled visit, Connor talked with me about his father. He cried and said he didn't want to go to his Nana and Pa's house (Kenna and Bob Symington) to see his dad.

April 25, 2004

In the afternoon, Jade became ill with a stomachache and a fever. Connor stated again that he did not want to see his father as planned. I called Kenna and told her that Connor and Jade would not be coming over. I told her about Jade's illness and about what

Connor had said. I told her I would be calling Dr. Margaret Kierstein the next morning to schedule an appointment as soon as possible for Connor and Jade to see her again and to ask her to provide guidance about what to do next.

April 26, 2004

I called Dr. Kierstein and left a message for her.

April 27, 2004

I spoke with Dr. Kierstein, told her what had happened and scheduled an appointment for the children to see her on Friday, April 30th. When I asked for her input she suggested an "ice breaker" visit for Connor and Jade the day after her scheduled appointment with them. She recommended a half-hour visit with their father and their grandparents at Friendly's for ice cream.

I called Kenna and relayed to her the conversation I had with Dr. Kierstein. I told her Saturday afternoon would work out well to schedule the visit to Friendly's. She said she'd contact Timothy.

April 28, 2004

Timothy left a message at my home saying that he, both attorneys and Dr. Kierstein agreed with the suggested "ice breaker" visit on Saturday. However, he also asked in that message for me to agree to a dinner with Connor and Jade at his parents' for the next day, Thursday.

A message was left at Timothy's home the next morning that the children were upset and saying that they did not want to see him and that I had scheduled an appointment with Dr. Kierstein for Friday, April 30th to find out what to do.

April 29, 2004

My attorney's office called me to tell me that Timothy's attorney had called saying that Timothy, his parents and I had made arrangements for a dinner for that evening, Thursday, and that I was breaking those plans. I told Linda Fidnick's assistant, Pat Balding, that I had already made arrangements with Kenna for a visit on Saturday, as a result of Dr. Kierstein's recommendation. I told her that no plans were made for a dinner that evening. In fact, Connor and Jade were not even available because of a Cub Scout event that night. Later that night, Connor talked about his father again, saying that he did not want to see him.

I asked Bob & Kenna Symington to please ask Tim to not call my home but to keep the phone contact for the scheduling of visits between his parents and me to avoid confusion.

April 30, 2004

Connor and Jade had their scheduled appointment with Dr. Kierstein. I updated her on Connor and Jade's discussions about their father and the events that had taken place. Dr. Kierstein said she had spoken with Timothy's attorney and he had asked her why she

suggested "changing the schedule". I told her there was no set schedule other than the visit for the next day. She stated that she is a therapist for Connor and Jade and not a caseworker for Timothy and me. I asked her what should be done if Connor and or Jade refuse to go to the scheduled supervised visits with their father. She said she didn't have an answer for that yet and that we should focus on the visit for the next day.

Connor and Jade each asked if I could be with them when they met with Dr. Kierstein individually. When she met with Connor she offered the idea of a 30 minute visit at Friendly's with his dad and grandparents. He said that was ok. Jade also agreed to the visit, but appeared especially anxious and fidgety, and would not make eye contact with Dr. Kierstein.

May 1, 2004

Connor stated he did not want to go to Friendly's to see his father. Jade vacillated between wanting to go and not wanting to go. When it was time to leave, she decided to go. I brought Jade to Friendly's at the scheduled time and she visited with her father and grandparents from 2:00 to 2:40. Kenna and I discussed a dinner visit for the children at her house during the following week. She also suggested that Connor talk to his dad on the phone before the dinner visit to see if that would help.

As Jade and I rode home Jade said, "Daddy said he was sorry. Daddy wasn't angry. He's happy now."

Later that day I talked with Connor and suggested that he talk to his father on the phone before he plans to see him to make it easier. He said no, that he did not want to talk to his father or see him.

May 3, 2004

Timothy called my home and left a message for Connor asking Connor to call him at his house telling him that just he and Connor would talk.

May 4, 2004

Timothy called my home and left a message regarding a visit during the week. Kenna also called to see if we could schedule a visit for Wednesday evening.


I talked with Connor and Jade about seeing their father during the week at their grandparents for dinner. Connor refused to go. Jade said she didn't want to go if Connor wasn't going. I called Bob and Kenna and told them what the children said. I asked Bob if he or Kenna had given Timothy the message about not calling me directly and communicating through them. He said he had.

May 6, 2004

As recommended by Dr. Margaret Keirstein (who provided the initial evaluation for the children), I called Judith Souweine's office to request appointments for Connor and Jade so they can begin receiving ongoing therapy, specifically to seek guidance in helping the children address the issues involving their relationship with their father.

Kenna called my home asking if she and Bob could see the children today for dinner or tomorrow evening (Friday, May 7th). Kenna was told that Connor had swim lessons this evening and that we were leaving Friday for a planned weekend trip to celebrate Mother's Day. I called Kenna back, left a message suggesting Connor, Jade and I meet her and Bob for ice cream tonight after Connor's swim lessons.

Signed under the pains and penalties of perjury this 6th day of May, 2004.

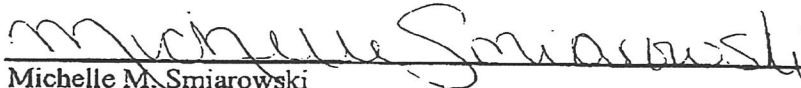


Cheryl R. Duval

June 10, 2004

1. My name is Michelle M. Smiarowski. I am a kindergarten teacher at the R.K.Finn Ryan Road School in Florence, MA. I am writing in regard to Jade Symington, one of my students.
2. Jade continues to complain of headaches and bellyaches, which she says are caused by her worries. The worries Jade tells me about continue to be her "Daddy calling Momma a bad name" and "Daddy yelling at me and Connor."
3. Jade has also been experiencing bad dreams which add to her worries. Jade is unable to rest during our rest time in class. She spends that time sitting beside me drawing the "bad dreams" that she has had.
4. Cheryl Duval, Jade's mother has the pictures that she has drawn. These pictures are angry and violent in nature. Most of the pictures are of monsters and some of her father, Timothy Symington.
5. When Jade is past her anxiety her drawings become happy and carefree.
6. Jade has become very dependent on me to help her manage her way through these "worries" that occur during her day.
7. I am in touch with Mrs. Lisa Safron, the school nurse, and Cheryl Duval on a regular basis concerning Jade and her behavior.

Signed under the pains and penalties of perjury this 10th day of June, 2004.



Michelle M. Smiarowski
Kindergarten Teacher
R.K. Finn Ryan Road School

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

HAMPSHIRE, ss.

DOCKET NO. 96D0228DV2

CHERYL L. DUVAL,
Plaintiff

v.

TIMOTHY SYMINGTON,
Defendant

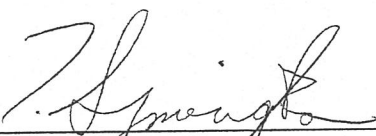
**AFFIDAVIT OF TIMOTHY D.
SYMINGTON**

1. I am Timothy Symington, named as the defendant in the above-entitled matter.
2. On May 18, 2004, a 51A report of abuse and neglect was made to the Department of Social Services, which was subsequently investigated.
3. On June 11, 2004, while the DSS investigation was ongoing, this Court made a Further Temporary Order suspending my rights of visitation with Connor Symington and Jade Symington. The matter was continued for Further Review until August 3, 2004, presumably after DSS would make its decision regarding the 51A.
4. On June 16, 2004, DSS notified me of its decision supporting the allegations of abuse and neglect. I appealed this decision to a Fair Hearing, which was scheduled for September 9, 2004.
5. The Further Review date of August 3, 2004, was continued as psychological testing was ordered and the guardian ad litem requested and received an extension of filing date relative to her report.
6. On August 26, 2004, DSS notified me that after completing a review of their investigation, they changed their decision regarding the allegation of sexual abuse to Connor to "unsupported." See attached Exhibit A.
7. On September 9, 2004, upon arriving at the DSS office for the Fair Hearing, I was notified by the Hearing Officer, Linda Horvath, Esq., that she had reviewed the 51B in this matter and, as a result, had requested that the Department reconsider its decision. DSS did, in fact, reconsider

its decision and changed its decision to "unsupported" as to all allegations. The changes made in the Department's decision were made prior to the scheduled Fair Hearing and obviated the need for same. I was informed that I would be receiving a letter containing this information, and, upon receipt of same, I will submit the letter as Exhibit B to this Affidavit.

8. Immediate reinstatement of visitation is in Connor and Jade's best interest, as it is now clear that there is no reasonable basis to justify denying them the society and companionship of their father. In addition, there is no reasonable basis to continue to deny me the right to visit with my children.

Signed under the pains and penalties of perjury this 13th day of September 2004.



Timothy D. Symington

James Levine
&
Associates, P.C.

Commonwealth of Massachusetts
Hampshire Division
Probate and Family Court
Docket No. 96D0228DV2

My name is John Maloney, and I am a Massachusetts Licensed Mental Health Counselor specializing in child and family treatment. Much of my work has involved children that have been exposed to various forms of abuse including sexual mistreatment.

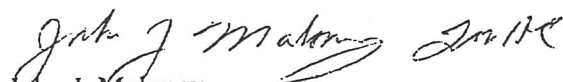
I began working with Connor Symington as his Clinician on June 24th of this year. To date I have met with Connor at total of eight times with each of those meetings including a combination of family and individual therapy. I have also met with Connor's mother Cheryl Duval on two separate occasions.

Mrs. Duval initially sought treatment for her son following his disclosing in May of this year that his father was being sexually inappropriate when he and his sister Jade would go to visit him. Symptoms at the time were reported by the mother to be Connor bedwetting, having bad dreams and vacillating between fearfulness and anger towards his father.

In sessions alone with Connor he has spoke of the abuse on more than one occasion. He is less fearful now about the matter however continues to be very angry towards Mr. Symington. In sessions he asks me to refer to his father as Tim and will correct me when I refer to him as his father. He stated that he does not consider him to be his father any longer. Reports of sexual exposure by Mr. Symington in the children's presence were made by Connor to this Clinician. Connor remembers in great detail his father making them watch him while he showered and watching them while they did. He remembers the father's penis being erect both in the bathroom and when he would make the children sleep with him.

When asked if he is sad about not seeing his father Connor states that he is only angry and that he does not want to see him again. It is this Clinician's opinion that seeing Mr. Symington at this time would be re-traumatizing to both children and would most certainly impact the sense of safety that has developed over the months since last seeing their father. It should also be noted that the work with children exposed to abusive and/or neglectful situations is long in duration and that Connor's progress would most definitely be impacted by visitation with his father at this time.

Signed under the pains and penalties of perjury this 27th day of September, 2004.


John J. Maloney
Licensed Mental Health Counselor

9 College Street Suite 6
South Hadley, MA 01075
Tel: 413-534-7400
Fax: 413-534-7483

130 Southampton Road
Westfield, MA 01085
Tel: 413-572-9900
Fax: 413-572-9901

COMMONWEALTH OF MASSACHUSETTS

Hampshire Division

2004 OCT 25 P 2:05

Probate & Family Court
Docket No. 96D0228DV2

FILED
CHERYL R. DUVAL, HAMPSHIRE DIVISION
Plaintiff PROBATE & FAMILY COURT

v.

TIMOTHY D. SYMINGTON,
Defendant

AFFIDAVIT OF CHERYL DUVAL
(OCTOBER 25, 2004)

1. My name is Cheryl Duval and I am the Plaintiff in this matter. I am writing this affidavit in order to provide the Court with information for the review scheduled for October 28, 2004.
2. I have remarried. I continue to be the primary caregiver of Connor and Jade. The decisions regarding Connor and Jade's life at home, education and health are made by me. Although my husband Paul Silvernail is very involved in the day to day lives of the children as their stepfather, the issues pertinent to this case are handled entirely by me, and all discussions about Mr. Symington or anything related to the matters in court are between the children and me. Early on, in order to avoid confusion on the children's part, I decided and asked all members of my family to direct the children to me if they had any questions about their father. The children continue to talk to me about Mr. Symington, and continue to make disclosures about events that occurred while they were in his care.
3. Connor and Jade Symington continue to receive treatment from their therapists on a weekly basis. Connor continues to be treated by John Maloney. Jade continues treatment with Lisette Lahana. Both children look forward to their therapy sessions, and appear to be very comfortable with their therapists. Both children have also met each other's therapists.
4. Connor's and Jade's eating and sleeping have improved. However, both children need a structured routine in order to transition into bedtime and then sleep through the night. Jade requires a significant amount of attention and soothing in order to get to a point where she can rest without me by her side. She still talks on a nightly basis about her bad dreams and fears of her father. These fears specifically involve him coming into the house and/or taking her in the middle of the night. Every night I need to assure her she is safe and she needs me to say that my job is to keep her "safe, healthy and happy." With guidance from Ms. Lahana, Jade and I continue to work together to make this time of the day more positive. She uses the image of boxes to put her bad dreams away and let her good dreams come out.

5. Connor appears to be enjoying school and time with friends. He is receiving a great deal of support and encouragement from his teachers and staff at his school, which include his classroom teachers, resource room teacher, one-on-one assistant and specialists.
6. Although it is a mixed experience, Jade has been generally happy about going to school in the morning. However, she is not doing well in school academically or in her interactions. She has a great deal of trouble focusing on her school work, and acts distracted and preoccupied by other things on her mind. Both at home and at school she needs a lot of help to focus on finishing work that is normally expected to be done independently. She is falling behind in academic performance this year, and she was behind last year as well.
7. Jade periodically cries about fear-filled experiences which she connects to her father. One example of this occurred a few weeks ago. She came home and told me with tears in her eyes that she thought she "saw Daddy in the playground at school." I have spoken to Jade's teacher about these fears.
8. Jade is very easily upset. This has interfered with her school day. I have seen how she reacts when an adult raises their voice in excitement, to get attention or to reprimand someone. One example occurred at the end of September when a school bus driver yelled out above the noise of all the children to get the attention of a misbehaving child. Although this was in no way directed at her, Jade immediately lowered her head, covered her ears with her hands and began crying. I held her and she cried, "The bus driver is being just like Daddy."
9. In this situation, as in others that are similar, I reassure her that the job of the bus driver is to keep her safe, which is what he was doing by correcting a boy who was misbehaving. I have also needed to have similar conversations with reassuring content with her regarding her teacher and principal, as well as other adults in her life outside of school (me, her stepfather, Paul, her grandparents, etc.). In order to impress upon her the idea that the job of adults in her life is to keep her safe, I have enlisted the help of her teacher, principal, Paul, my parents and other family members. I have asked these people to be attentive to her emotional state and to reassure her if she seems to be upset by something.
10. Although this fear of adults continues, she has begun to show some signs of beginning to trust adults. She has become somewhat more carefree in her interactions with adults, including being able to engage in active play. Examples of this include being cared for on occasion by other adults besides me (family members and babysitters) without negative reactions, being physically active with adults (hugging, play-wrestling, tickling) and talking freely about school, her friends and hobbies.
11. Connor has become very supportive of Jade, especially in moments of her expressed fear. They spend a great deal of time playing, sharing and talking together. Their sibling bond has become very strong. This past August when Paul, the children and I were on our way to Cape Cod Jade, looking out the window, yelled out in a panic exclaiming, "There's

Daddy! Daddy's following us!" She put her head on her lap, covered her head with her hands and cried. I immediately turned around, looked out the truck window and tried to reassure her that he wasn't here, that everything was ok. Connor grabbed Jade's hand and said in a very calm voice, "Jade, it's ok. You're safe. Momma's here to keep you safe."

12. The typical reactions of the children vary when the topic of their father comes up. Connor's responses range from being matter-of-fact about not seeing his father to angry about the numerous incidents he has explained to me (regarding his father screaming at him, exposing his erect penis to Connor and making him sleep in bed with him), as well as the fact that Timothy has not apologized for the things he has done. More recently Connor has expressed fear and stress over disclosures he has made about his father's actions by twisting and pulling his hair with his fingers repeatedly, turning away from me with a flushed face while talking and having extreme difficulty looking at me while talking. This occurred over the weekend of October 16th as Connor was remembering and disclosing details about the experience of being alone with his father in his father's bed. Connor stated that many times he would sleep in bed with Timothy, both of them only wearing underpants. He also showed me how he would lie on his stomach, while his father's genitals were pressed on his backside. Connor was speaking very softly and couldn't look at me as he described that his father would hold him, and he said "I turn my head away from Tim and lie on my stomach because I don't want him to kiss me."
13. Jade also continues to make disclosures about time with Mr. Symington. She describes things that occurred in the bathroom. She talks about her "privates" and her father "doing bad things in the bathroom." When she talks about these things her face flushes, her eyes tear up and she hugs me or sits on my lap.
14. Connor displays his anger at his father in various ways. He will only refer to his father as "Tim" and asks other people to do the same. Connor has great difficulty using his last name verbally or in print. He does not like saying his full name "Connor Symington", and he refuses to write it out. This is an issue that the teachers at school have helped him with. To ease his anxiety about this issue they allow him to sign his name "Connor S." Jade uses both "Daddy" and "Tim" when discussing her father.
15. Jade's reaction to conversations or events somehow related to her father are usually fearful (shown when she widens her eyes as they dart around, covers her head, pulls her hair or bites her arm). On occasion lately there have been several times when she has been able to be more calm when talking about Mr. Symington, particularly when she is interacting with Connor, that have been less emotional. However, very recently when Connor brought Mr. Symington into their conversation she blurted out, "I want Tim to be in California."
16. Although Mr. Symington now denies it, while we were married he would yell at me and in many other ways display his rage. As proof of his behavior, attached to this affidavit is a document prepared by Mr. Symington in which he apologized for a variety of incidents, including screaming at me in front of Connor. His anger was a major cause of

the end of our marriage. I fear that he is now directing that anger at the children, and this is causing the reaction that I, their teachers and their therapists are now seeing. In addition, he signed a "contract" agreeing to stop his raging outbursts, also attached to this affidavit, which I offered him as an alternative to securing a 209A against him at the time. He agreed to attend an anger management program; he never followed through. He also agreed to attend therapy with me as a way of addressing the issues as they impacted the children, but after he attended only 3 or 4 times (wearing sunglasses that he wouldn't remove and coming in late) he stopped unilaterally.

Signed under the pains and penalties of perjury this 25th day of October, 2004.


Cheryl Duval

Tim will spend time with Connor and Jade to establish a routine necessary for the child. The transitions are as smooth as possible for the contact between Cheryl and Tim. At least one present during these visits. As Tim progresses, he will increase his responsibility for the care of the

The timing of these visits will be as follows:

Monday	4:00 - 7:00
Wednesday	4:00 - 7:00
Friday	4:00 - 7:00
Sunday	2:00 - 7:00

Unless otherwise discussed and agreed upon, drop-offs and pick-ups will happen at Tim and Keena's house, while one of them is home. Cheryl will bring Connor and Jade to the house 20 minutes prior to Tim's arrival (i.e. 3:40) and pick them up 20 minutes after Tim leaves (i.e. 7:20).

As the situation improves for all involved, these days are subject to change.

Changes to the schedule, including (and not limited to) an increase in time or overnight stays, will be discussed at a later date. Changes will be discussed upon Tim's progress and Connor and Jade's level of safety and readiness. These changes will need to be agreed upon in a written document.

My name is Martha Morris. I am Jade Symington's first grade teacher.

Jade has been experiencing difficulty attending and progressing academically in school this year. Jade has trouble focusing on the tasks assigned to her. She is distracted, anxious, and appears to be preoccupied with things outside of the classroom. She needs a lot of redirecting and support to complete work that is typically expected to be completed independently. She is also lagging behind in her academic performance. She needs to catch up on skills that she should have learned and remembered from the previous academic year.

Because of my concerns about Jade, her mother, Cheryl Duval, and I have met to discuss Jade's emotional and academic needs. Specifically, we are working together on reassuring Jade of her safety at school and Ms. Duval is giving Jade extra help at home to help her catch up on reading, writing and spelling skills.

Signed under the pains and penalties of perjury this 25th day of October, 2004.



Martha Morris

**James Levine
&
Associates, P.C.**

Monday, October 25, 2004

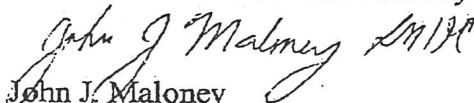
This letter is being submitted on behalf of Connor Symington with whom I continue to treat as his Mental Health Clinician through James Levine and Associates and will serve as an update of our work together. Since my last submitted letter I have continued meeting with Connor on a weekly to bi-weekly basis utilizing a combination of individual and family treatment. Family meetings have involved the mother Cheryl Duval as well as the sister Jade on occasion.

The primary focus of treatment continues to be addressing the reported abuse and neglect by the father Tim Symington, its impact on Connor and the family, and strategies for managing their reactions to it. Connor shared memories of the abuse with this Clinician as recently as this past Wednesday and in response to my inquiries about missing his father he stated that he did not. He was also very clear that he has no desire to see his father regardless of the type of visitation arrangement.

In addition to the primary treatment goals our work has also addressed his diagnosis of Asperger's Disorder and its impact on his overall functioning in school. Stressors around work load and peer interactions have been identified along with strategies for managing this stress. We also role-play school related interactions to help him become more confident with his friends and classmates.

At this time it is my professional opinion that Connor not have visitation with his father until there has been some evidence that Mr. Symington has completed a specified treatment program. I do not have any specific professionals to recommend however the Men's Resource Center in Amherst and the Family Resource Center in Springfield may have treatment options that would be helpful. Only after completing a treatment program and consultation with the designated program staff on his progress should visitation be considered. Visitation should also be completely supervised by a professional, not by a friend or family member.

Please feel free to call me with any questions regarding this matter.


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