

**COURT OF COMMON PLEAS**

JUVENILE COURT DIVISION

COUNTY OF CUYAHOGA

Court Services Department

Clerk's Office

2210 Cedar Road

Cleveland, Ohio 44115

(216) 698 - 4763

JOSEPH F. RUSSO  
ADMINISTRATIVE JUDGE

KENNETH J. LUSNIA  
COURT ADMINISTRATOR

JUDGES  
PETER M. SIKORA  
PATRICK F. CORRIGAN  
ALISON L. FLOYD  
KRISTIN W. SWEENEY  
THOMAS F. O'MALLEY

August 22, 2008

Attorney Pamela J. MacAdams  
Morganstern MacAdams & DeVito, L.P.A.  
623 West Saint Clair Avenue  
Cleveland, Ohio 44103 - 1204

IN RE: Solomon J. & Jack K. La Piana

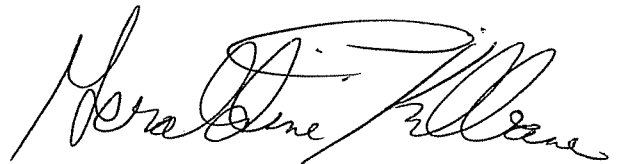
CASE NO.: 07101304

Dear Madam:

Please be advised that an Appeal has been filed in the above captioned matter which originated in this Court.

Enclosed herewith, please find a copy of the Notice of Appeal, Praecipe, Docketing Statement and a copy of the Journal Entries: Volume 5 Page 6795; Volume 5, Page 7308.

Very truly yours,

A handwritten signature in black ink, appearing to read "Geraldine C. Kilbane", written in a cursive style.

Geraldine C. Kilbane  
Deputy Clerk

2008 AUG 22 AM 9:20

CLERK OF COURTS

IN THE COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF:	)	CASE NO. CU 07 101304
	)	
Solomon J. La Piana,	)	JUDGE KRISTIN W. SWEENEY
	)	
RITA GOODMAN,	)	JUDGE JERRY L. HAYES, Sitting by
	)	Assignment
Petitioner-Appellee,	)	
	)	
v.	)	
	)	
SIOBHAN LA PIANA,	)	
	)	NOTICE OF APPEAL
Respondent-Appellant.	)	

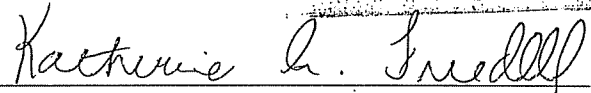
Respondent-Appellant Siobhan La Piana, by and through counsel, hereby appeals to the Court of Appeals of Cuyahoga County, Ohio, Eighth Appellate District, from the final judgment entered in CU 07 101304 on August 6, 2008, which granted Petitioner-Appellee visitation with and access to Respondent-Appellant's minor child Solomon J. LaPiana when Respondent-Appellant, who was not found to be unsuitable and who is the sole parent of the minor child, has the fundamental right to make all decision regarding the care, custody and control of her child.

A copy of the final judgment is appended hereto.

2008 AUG 22 AM 9:20

CLERK OF COURTS

Respectfully submitted,



Katherine A. Friedell (0058423)

John E. Schoonover (0025623)

SCHOONOVER, ANDREWS &

ROSENTHAL, L.L.C.

North Point Tower, Suite 1720

1001 Lakeside Avenue

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(216) 589-9600

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[kfriedell@sbcglobal.net](mailto:kfriedell@sbcglobal.net);

[jschoonover@sbcglobal.net](mailto:jschoonover@sbcglobal.net)

Attorneys for Respondent-Appellant Siobhan

La Piana

**CERTIFICATE OF SERVICE**

A copy of the foregoing Notice of Appeal has been forwarded by regular U.S. Mail, postage prepaid, to Pamela J. MacAdams, Attorney for Petitioner-Appellee, Morganstern, MacAdams & DeVito, L.P.A., 623 West Saint Clair Avenue, Cleveland, Ohio 44103-1204 on this 22nd day of August, 2008.



Katherine A. Friedell (0058423)

John E. Schoonover (0025623)

Attorneys for Respondent-Appellant

**COURT OF COMMON PLEAS, JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO**

IN THE MATTER OF: SOLOMON J. LAPIANA

CASE NO : CU07101304

JUDGE: Kristin W. Sweeney

Journal Entry

Rita Goodman

Petitioner

vs

Siobhan La Piana

Respondent

This matter came before the Honorable Jerry L. Hayes, Judge by Assignment for hearing on this 9th day of June, 2008 and the matter was concluded on the 10th day of June, 2008. Rita Goodman, Petitioner, was present represented by Attorney Pamela J. MacAdams and Siobhan LaPiana, Respondent, was present represented by Attorney John E. Schoonover and Attorney

Katherine A. Friedell. Attorney John V. Heutsche, Guardian ad Litem for the minor children was also present.

Testimony was taken from Petitioner Rita Goodman, Respondent Siobhan La Piana, Rachael Goodman, Mother of Petitioner, Dr. Meryl Soto-Schwartz, Marko Lukowsky and the Guardian ad Litem, Attorney John Heutsche. Exhibits were offered and received and final arguments were submitted to the Court by written memoranda.

The matter before the Court is the allocation of parental rights between Rita Goodman, Petitioner, and Siobhan La Piana, Respondent.

The two women were involved in a same sex relationship which began in the early 1990's and, with minor interruptions, continued until 2001. During the course of this relationship, two children were born to Siobhan La Piana. Solomon J. La Piana was born April 26, 1997, and Jack K. La Piana was born on May 17, 2000.

Counsel for the Petitioner states in her written memoranda of final argument that "Lesbians never become parents by accident." In fact, there was great deal of planning. Siobhan was selected to be the biological mother in recognition of the age differences between the two women. They selected a donor for artificial insemination who was Jewish, of Russian and Polish background and who shared the artistic interest of both woman. Both boys have the same donor.

During the nearly 10 year relationship between the two women all the evidence indicates they functioned as a family unit. The boys were named after Rita's family members. They celebrated birthdays and holidays as any family would and the boys carried Goodman as their last name. (the Respondent unilaterally changed both last names of the minor children from Goodman to LaPiana). In fact, the two women even entered into a written agreement to "Jointly Raise our Child" (Jack was not yet born).

The two women, however, never held a ceremonial marriage and Petitioner never attempted adopt the two boys (not permitted in Ohio but possible in other states).

The relationship ended in 2001, but the Petitioner continued to enjoy a significant involvement in the lives of the two boys. That involvement, however, changed when Siobhan became involved in a heterosexual relationship with Marko Lukowsky. The relationship between Rita Goodman and the two boys became more and more restricted as Siobhan's new partnership blossomed.

Having determined that she would eventually be shut out of the lives of the two boys, Rita Goodman turned to the Courts seeking an Order of Shared Parenting and/or a Companionship Schedule.

The position of Respondent Siobhan La Piana is that, as the biological mother, she, and she alone has a fundamental right to make the decisions regarding the care, custody and control of her children. She argues that Petitioner is seeking rights that are afforded only to married couples and, furthermore, seeks an involvement with the children exceeding that which would normally be granted to couples formerly married.

Respondent cites the Marriage Protection Amendment Act as standing for the proposition that Petitioner Goodman has no standing or legal status regarding the children. In addition, Respondent cites *In re Cheyenne Madison Jones (2002, Miami County) 2002 Ohio App. Lexis 2269*, (non biological partner cannot be a parent within meaning of R. C. 3109.04 and not entitled to award of parental rights) *Troxel v. Granville, (2000), 530 U.S. 57*, (Fourteenth Amendment protects rights of parent to make decisions regarding the child), *In re Bonfield (2002), Ohio St. 3rd 218* (non biological party has no standing to assert custody), and *Liston v. Pyles (1997 Franklin County), 1997 Ohio App. Lexis 3627* (non biological partner had no standing to bring child support motion).

Petitioner Rita Goodman argues that she is as much a "mom" to these two boys as is Siobhan La Piana. Her written memoranda states:

"...Rita is just as much mom as Siobhan is to these boys. On Mother's Day (P Ex. 17) they make two cards, one for each mother. When they illustrate family the illustration contains Rita, Siobhan and the boys (P Ex. 14). When they do school projects related to mother and family, they reference Rita as mother (P E's 15,16, 18, 19, 32). When the school camps, community, temple and medical personnel reference these women, both are listed as mother (P Ex. 20-24).

Petitioner argues that one of the most critical pieces of evidence in favor of Petitioner's position is the agreement to "Jointly Raise our Child" which Rita Goodman and Siobhan La Piana executed at the time of the first child's birth. The agreement was followed by both parties and used to help raise both of the minor children.

Petitioner suggests the agreement accompanied by the actions of the two parties constitute waiver of Siobhan's exclusive right to parent the children and, in fact, relinquished a part of that time to Rita Goodman.

Counsel for the Petitioner argues that the controlling legal precedent is found in the cases of *In re: Bonfield (2002)*, 96 Ohio St. 2d 218, and *in re; Perales (1977)* 52 Ohio St. 2d 89. Petitioner suggests that the Ohio Supreme Court in *Bonfield* holds that a juvenile court has the jurisdiction to adjudicate a claim for shared custody pursuant to R.C. 2151.23 (A)(2) and that such exclusive jurisdiction cannot be avoided merely because an applicant is not a "parent" under R.C. 3109.04. Petitioner also argues that *In re: Fairchild (2002)*, *Franklin County No. 01 JU-03-2542*, states that:

"...it is well settled law that 'parents who are suitable' persons have a 'paramount' right to custody of their minor children unless they forfeit that right by contract....."(Emphasis added).

Petitioner further argues that if a finding of unsuitability is necessary, a finding of contractual relinquishment of custody is sufficient to show unsuitability. *Perales*, 52, Ohio St 2d at 98.

After a full consideration of the testimony of the parties, an examination of the exhibits, a review of the applicable law and a review of the written arguments of counsel, it is ORDERED, ADJUDGED, and DECREED that:

1. Respondent Siobhan La Piana shall be named residential parent and legal custodian for the minor children, Solomon J. Lapiana and Jack K. La Piana.

2. All decisions regarding religion, physician selection, medical treatment, and school selection shall be made by the residential parent.

3. Petitioner Rita Goodman shall be entitled to notification of school events and activities and shall be entitled to reports of the boys academic progress and Respondent Siobhan La Piana shall provide her with the same. Rita Goodman shall be entitled to attend all school activities and events with the exception of parent/teacher conferences.

4. Petitioner Rita Goodman shall be entitled to the following companionship/visitation schedule:

A. Every other weekend from Friday evening at 5:00 pm (earlier by agreement) until Monday morning. During school periods Petitioner will deliver the children to school. During non school times Petitioner will deliver the children to Respondents residence by 9:00 am.

B. Petitioner will have visitation one evening a week. During non school times it shall be overnight. During school times it will be from 5:00 pm until 8:00 pm. Petitioner will pick up the children at an agreed upon exchange point and Respondent will collect the children at the end of visitation at the same location. Unless otherwise agreed, the weekday visits will take place on Wednesday.

C. When times of special meaning occur the parties will adjust the visitation and schedule and make up time any time missed.

D. Petitioner may have three uninterrupted weeks of summer visitation or may, by agreement, break up the weeks. Notice shall be given by Petitioner to Respondent at least 30 days in advance by certified mail.

E. Visitation may be expanded by agreement of the parties.

F. The Petitioner and the Respondent shall share the fees of the guardian ad litem equally and the parties shall be responsible for payment of their own attorney fees.

G. Should either the Petitioner or the Respondent elect to leave the jurisdiction of the

Court notice shall be provided to the other party. Nothing in this requirement is intended to indicate that permission shall be withheld.

H. The duties of the appointed guardian ad litem shall terminate with the filing of this judgment.

I. Any motions still pending and not specifically addressed by this Judgment Entry shall be dismissed.

The Court suggests that Petitioner may wish to contribute financially to the support of the minor children. A special bank account should be opened and all child related payment should be made from that account to avoid later disputes.

It is so Ordered!



---

Judge Jerry L. Hayes

August 05, 2008

**Filed with the clerk and journalized by Cuyahoga County Juvenile Court Clerks Office,  
Volume 5, Page 6795, August 06, 2008, cjmwx**

2008 AUG 22 AM 9:21  
CLERK OF COURTS

EIGHTH DISTRICT COURT OF APPEALS -- LOCAL RULE NO. 9

In The Matter Of:  
Solomon J. LaPiana

PRAECIPE

Rita Goodman

Plaintiff,

vs.

Siobhan LaPiana

Defendant.

Trial Court Case No. CU 07 101304

Date Of Final Judgment

In Trial Court August 6, 2008

The Notice Of Appeal Was Filed

Timely In Compliance With:

☒ App.R. 4(A)--within 30 days  
of the entry of judgment

☐ App.R. 4(B)--exceptions to  
the 30-day requirement

TO THE CLERK OF THE TRIAL COURT:

☒ 1. Appellant requests that the clerk immediately prepare and assemble the original papers and exhibits filed in the trial court and a certified copy of docket and journal entries.

☒ 2. In addition, appellant will cause the record in this appeal to include the following (if applicable):

☒ a. Complete transcript under Appellate Rule 9(B).

☐ b. Partial transcript under Appellate Rule 9(B).

☐ c. Statement of evidence or proceedings under Appellate Rule 9(C).

☐ d. Agreed statement under Appellate Rule 9(D).

(216) 589-9600  
1001 Lakeside Avenue #1720  
Cleveland, Ohio 44114

PLEASE NOTE:

1. The appellant must instruct the court reporter to prepare the transcript.
2. If the items checked above are not timely filed with the court, then the appeal will be dismissed. App.R. 10(A).

Katherine A. Friedell  
~~APPPELLANT~~ Attorney for Appellant

John E. Schoonover (0025623)  
Katherine A. Friedell (0058423)



EIGHTH DISTRICT COURT OF APPEALS -- LOCAL RULE NO. 9

In The Matter Of: DOCKETING STATEMENT  
Solomon J. LaPiana

Rita Goodman

Trial Court Case No. CU 07 101304

Plaintiff,

vs.

Siobhan LaPiana

Defendant.

CLERK OF COURTS

2008 AUG 22 AM 9:22

COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY  
FILED

A. CHOOSE THE APPROPRIATE DESIGNATION FOR THIS CASE (check one):

- ☐ Accelerated calendar (see Loc.App.R. 11.1.)
- ☒ Regular calendar
- ☐ Denial of bail appeal
- ☐ Appeal (check one of the following):
  - ☐ A. From an order granting or denying:
    - 1. Adoption of a minor child; or
    - 2. Termination of parental rights. See App.R. 11.2.
  - ☐ B. Concerning a dependent, neglected, unruly, or delinquent child. See App.R. 7(C).

(Item A of this docketing statement was adopted at the Judges meeting on February 15, 2001 to comply with Appellate Rule 11.2.)

Assigned to the accelerated calendar for the reason(s) checked (see Local Rule 11.1).

- ☐ 1. No transcript required.
- ☐ 2. Transcript and all other evidentiary materials consist of one hundred (100) or fewer pages.

Assigned to the regular calendar with full briefing for the reason(s) checked.

- ☒ 1. Transcript and all other evidentiary materials are more than one hundred (100) pages.
- ☒ 2. Brief in excess of fifteen (15) pages is necessary to argue the issues adequately.
- ☐ 3. Appeal concerns unique issue of law that will be of substantial precedential value in determining similar cases.
- ☐ 4. Appeal concerns multiple or complex issues.

☐ 5. A statement is submitted under App. R. 9(C).

B. THE FOLLOWING QUESTIONS APPLY TO ALL CIVIL AND ADMINISTRATIVE APPEALS:

1. Final appealable order:

(a) Has the trial court disposed of all claims by and against all parties?

☒ Yes. Attach copies of all judgments and orders indicating that all claims against all parties have been dismissed.

☐ No.

(b) If the answer to (a) is "No," has the trial court made an express determination that there is "no just reason for delay," per Civ.R. 54(B), with respect to the judgment or order from which the appeal is taken?

☐ Yes, in the same judgment or order.

☐ Yes, in a subsequent order dated \_\_\_\_\_. Attach a copy of the subsequent order.

☐ No.

(c) Is the judgment or order subject to interlocutory appeal under R.C. 2505.02 (check all that apply)?

☐ Yes, because the order affects a substantial right in an action and prevents a judgment. See R.C. 2505.02(B)(1).

☐ Yes, because the order was made in a special proceeding. See R.C. 2505.02(B)(2).

☐ Yes, because the order vacates or sets aside a judgment or grants a new trial. See R.C. 2505.02(B)(3).

☐ Yes, because the order grants or denies a provisional remedy and meets the other criteria of R.C. 2505.02(B)(4).

☐ Yes, because the order determines that an action may or may not be maintained as a class action. See R.C. 2505.02(B)(5).

☒ No.

2008 AUG 22 AM 9:22  
CLERK OF COURTS  
COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY  
FILED

(d) Does the right to an immediate appeal arise from a provision of a statute other than R.C. 2505.02?

☐ Yes. Identify statute: \_\_\_\_\_.

☒ No.

NOTE: IF THE ANSWER TO ALL OF THE ABOVE IS "NO," THE ORDER IS NOT A FINAL APPEALABLE ORDER, AND THE APPEAL WILL BE SUMMARILY DISMISSED FOR LACK OF APPELLATE JURISDICTION.

2. Nature of case:

- ☐ Administrative Appeal
- ☐ Contract
- ☐ Declaratory Judgment
- ☐ Domestic Relations
- ☒ Juvenile
- ☐ Medical Malpractice
- ☐ Personal Injury
- ☐ Probate
- ☐ Other (describe): \_\_\_\_\_

CLERK OF COURTS

2008 AUG 22 AM 9:22

COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY  
FILED

3. Do you know of another case pending before this court that raises the same issue or issues?

☐ Yes ☒ No

If yes, please cite the case(s): \_\_\_\_\_

4. Does the appeal turn on an interpretation or application of a particular case or statute?

☒ Yes ☐ No

If yes, please cite the case(s) or statute(s): \_\_\_\_\_  
See attached.

5. How would you characterize the extent of your settlement discussions before judgment?

- ☐ None
- ☐ Minimal
- ☒ Moderate
- ☐ Extensive

6. Have settlement discussions taken place since the judgment or order appealed from was entered?

☐ Yes ☒ No

7. Would a prehearing conference assist the resolution of this matter?

☐ Yes ☒ No ☐ Maybe

Please explain (optional): \_\_\_\_\_

8. Briefly summarize the assignments of error presently anticipated to be raised on appeal. (Attach a separate sheet if necessary.)  
See attached.

1001 Lakeside Avenue #1720  
Cleveland, Ohio 44114  
(216) 589-9600

Katherine A. Friedell  
~~XXXXXXXXXX~~ Attorney for Appellant  
John E. Schoonover (0025623) / Katherine A. Friedell  
(0058423)

The primary purpose of a prehearing conference is to encourage the parties to explore any possibilities there may be for settlement of the case before incurring additional expenses or, if that is not possible, to limit the issues.

Loc.App.R. 20(E) provides that this court may assess reasonable expenses, including attorney fees, assess all or a portion of the appellate costs, or dismiss the appeal for failure to comply with provisions of this Rule.

[Amended Eff. July 1, 1999.]

COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY  
FILED  
2008 AUG 22 AM 9:22  
CLERK OF COURTS

**COURT OF COMMON PLEAS, JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO**

IN THE MATTER OF: SOLOMON J. LAPIANA

CASE NO : CU07101304

JUDGE: Kristin W. Sweeney

Journal Entry

Rita Goodman

Petitioner

vs

Siobhan La Piana

Respondent

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  - C. When times of special meaning occur the parties will adjust the visitation and schedule and make up time any time missed.
  - D. Petitioner may have three uninterrupted weeks of summer visitation or may, by agreement, break up the weeks. Notice shall be given by Petitioner to Respondent at least 30 days in advance by certified mail.
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- G. Should either the Petitioner or the Respondent elect to leave the jurisdiction of the

Court notice shall be provided to the other party. Nothing in this requirement is intended to indicate that permission shall be withheld.

H. The duties of the appointed guardian ad litem shall terminate with the filing of this judgment.

I. Any motions still pending and not specifically addressed by this Judgment Entry shall be dismissed.

The Court suggests that Petitioner may wish to contribute financially to the support of the minor children. A special bank account should be opened and all child related payment should be made from that account to avoid later disputes.

It is so Ordered!



---

Judge Jerry L. Hayes

August 05, 2008

Filed with the clerk and journalized by Cuyahoga County Juvenile Court Clerks Office,  
Volume 5, Page 6795, August 06, 2008, cjmxw



**Attachment to paragraph 4 of Docketing Statement, Case nos. CU 07 101304 and 101305**

*In re Cheyenne Madison Jones* (2002, Miami County), 2002 Ohio App. Lexis 2296

*Liston v. Pyles* (1997, Franklin County), 1997 Ohio App. LEXIS 3627

*In re Perales* (1977), 52 Ohio St. 2d 89

*Masitto v. Masitto* (1986), 22 Ohio St. 3d 63

*State ex rel. Fowler v. Smith* (1994), 68 Ohio St. 3d 357

*State ex rel. Lundsford v. Buck* (1993), 88 Ohio App. 3d 425

*In Re Bonfield* (2002), Ohio St. 3d 218

*In re Randy B. Weiner*, Case No. CU 07101683 (Cuyahoga County Juvenile Court)

*Troxel v. Granville* (2000), 530 U.S. 57

Article XV, Section 11 to the Ohio Constitution (2004)

R.C. 3107.084

R.C. 3109.04

R.C. 3109.05

R.C. 3109.051(B)(1)

R.C. 3109.11

R.C. 3109.12

R.C. 2151.23

**Attachment to paragraph 8 of Docketing Statement, Case nos. CU 07 -01304 and -101305**

The Trial Court erred and abused its discretion as follows:

1. by granting to Petitioner-Appellee, who is not a parent or relative of the minor children of Respondent-Appellant, weekend and midweek visitation with the minor children and access to them on days of special meaning; by granting Petitioner-Appellee three weeks of summer vacation with Respondent-Appellant's minor children; by granting Petitioner-Appellee the right to notification of the minor children's school events and activities and to reports of their academic progress; by granting Petitioner-Appellee the right to attend the minor children's school activities and events when Respondent-Appellant, as the sole parent of the minor children, has the fundamental right to make all decisions regarding the care, custody and control of her minor children; and, therefore, by failing to find that Petitioner-Appellee is not entitled under the law to any of the rights that the trial court granted her;
2. by having granted Petitioner-Appellee's Motion for the Appointment of a Guardian *ad litem* before determining whether Respondent-Appellant, the sole parent of the minor children, was unsuitable; and then, not finding her to be unsuitable, failing to immediately dismiss the matter in front of the Court, and failing to find that there was no need for a guardian *ad litem*;
3. by having failed to grant Respondent-Appellant's Motion to Dismiss Petitioner-Appellee's Application to Determine Custody and/or Motion to Establish Shared Parenting and/or Motion to Establish Rights of Companionship by Person with Significant Relationship with a Child (R.C. 3109.04, 2151.23, 3109.051) filed on February 9, 2007, when Petitioner-Appellee, a person unrelated to the Respondent-Appellant's minor children, had no basis under the law for her Application and Motions under the law.

COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY  
FILED

2008 AUG 22 AM 9:23

CLERK OF COURTS

IN THE COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF:	)	CASE NO. CU 07 101305
	)	
Jack K. La Piana,	)	JUDGE KRISTIN W. SWEENEY
	)	
RITA GOODMAN,	)	JUDGE JERRY L. HAYES, Sitting By
	)	Assignment
Petitioner-Appellee,	)	
	)	
v.	)	
	)	
SIOBHAN LA PIANA,	)	
	)	NOTICE OF APPEAL
Respondent-Appellant.	)	

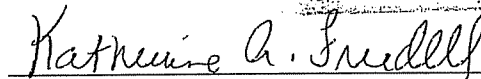
Respondent-Appellant Siobhan La Piana, by and through counsel, hereby appeals to the Court of Appeals of Cuyahoga County, Ohio, Eighth Appellate District, from the final judgment entered in CU 07 101305 on August 8, 2008, which granted Petitioner-Appellee visitation with and access to Respondent-Appellant's minor child Jack K. La Piana when Respondent-Appellant, who was not found to be unsuitable and who is the sole parent of the minor child, has the fundamental right to make all decision regarding the care, custody and control of her child.

A copy of the final judgment is appended hereto.

2008 AUG 22 AM 9:23

CLERK OF COURTS

Respectfully submitted,



Katherine A. Friedell (0058423)

John E. Schoonover (0025623)

SCHOONOVER, ANDREWS &  
ROSENTHAL, L.L.C.

North Point Tower, Suite 1720

1001 Lakeside Avenue

Cleveland, Ohio 44114

(216) 589-9600

(216) 589-9800 facsimile

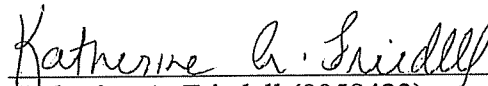
[kfriedell@sbcglobal.net](mailto:kfriedell@sbcglobal.net);

[jschoonover@sbcglobal.net](mailto:jschoonover@sbcglobal.net)

Attorneys for Respondent-Appellant Siobhan  
La Piana

**CERTIFICATE OF SERVICE**

A copy of the foregoing Notice of Appeal has been forwarded by regular U.S. Mail, postage prepaid, to Pamela J. MacAdams, Attorney for Petitioner-Appellee, Morganstern, MacAdams & DeVito, L.P.A., 623 West Saint Clair Avenue, Cleveland, Ohio 44103-1204 on this 22nd day of August, 2008.



Katherine A. Friedell (0058423)

John E. Schoonover (0025623)

Attorneys for Respondent-Appellant

COURT OF COMMON PLEAS, JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: JACK K. LAPIANA

CASE NO : CU07101305

JUDGE: Kristin W. Sweeney

Journal Entry

Rita Goodman

Petitioner

VS

Siobhan La Piana

Respondent

This matter came before the Honorable Jerry L. Hayes, Judge by Assignment for hearing on this 9th day of June, 2008 and the matter was concluded on the 10th day of June, 2008. Rita Goodman, Petitioner, was present represented by Attorney Pamela J. MacAdams and Siobhan LaPiana, Respondent, was represented by Attorney John E. Schoonover and Attorney

Katherine A. Friedell. Attorney John V. Heutsche, Guardian ad Litem for the minor children was also present.

Testimony was taken from Petitioner Rita Goodman, Respondent Siobhan La Piana, Rachael Goodman, Mother of Petitioner, Dr. Meryl Soto-Schwartz, Marko Lukowsky and the Guardian ad Litem, Attorney John Heutsche. Exhibits were offered and received and final arguments were submitted to the Court by written memoranda.

The matter before the Court is the allocation of parental rights between Rita Goodman, Petitioner, and Siobhan La Piana, Respondent.

The two women were involved in a same sex relationship which began in the early 1990's and, with minor interruptions, continued until 2001. During the course of this relationship, two children were born to Siobhan La Piana. Solomon J. La Piana was born April 26, 1997, and Jack K. La Piana was born on May 17, 2000.

Counsel for the Petitioner states in her written memoranda of final argument that "Lesbians never become parents by accident." In fact, there was great deal of planning. Siobhan was selected to be the biological mother in recognition of the age differences between the two women. They selected a donor for artificial insemination who was Jewish, of Russian and Polish background and who shared the artistic interest of both woman. Both boys have the same donor.

During the nearly 10 year relationship between the two women all the evidence indicates they functioned as a family unit. The boys were named after Rita's family members. They celebrated birthdays and holidays as any family would and the boys carried Goodman as their last name. (the Respondent unilaterally changed both of the minor children from Goodman to LaPiana). In fact, the two women even entered into a written agreement to "Jointly Raise our Child" (Jack was not yet born).

The two women, however, never held a ceremonial marriage and Petitioner never attempted

adopt the two boys (not permitted in Ohio but possible in other states).

The relationship ended in 2001, but the Petitioner continued to enjoy a significant involvement in the lives of the two boys. That involvement, however, changed significantly when Siobhan became involved in a heterosexual relationship with Marko Lukowsky. The relationship between Rita Goodman and the two boys became more and more restricted as Siobhan's new partnership blossomed.

Having determined that she would eventually be shut out of the lives of the two boys, Rita Goodman turned to the Courts seeking an Order of Shared Parenting and/or a Companionship Schedule. The position of Respondent Siobhan La Piana is that, as the biological mother, she, and she alone has a fundamental right to make the decisions regarding the care, custody and control of her children. She argues that Petitioner is seeking rights that are afforded only to married couples and, furthermore, seeks an involvement with the children exceeding that which would be granted to couples formerly married.

Respondent cites the Marriage Protection Amendment Act as standing for the proposition that Petitioner Goodman has not standing or legal status regarding the children. In addition, Respondent cites *In re Cheyenne Madison Jones (2002, Miami County) 2002 Ohio App. Lexis 2269*, (non biological partner cannot be a parent within meaning of R. C. 3109.04 and not entitled to award of parental rights) *Troxel v. Granville, (2000), 530 U.S. 57*, (Fourteenth Amendment protects rights of parent to make decisions regarding the child), *In re Bonfield (2002), Ohio St. 3rd 218* (non biological party has no standing to assert custody), and *Liston v. Pyles (1997 Franklin County), 1997 Ohio App. Lexis 3627* (non biological partner had no standing to bring child support motion).

Petitioner Rita Goodman argues that she is as much a "mom" to these two boys as is Siobhan La Piana. Her written memoranda states:

"...Rita is just as much mom as Siobhan is to these boys. On Mother's Day (P Ex. 17) they make two cards, one for each mother. When they illustrate family the illustration contains Rita, Siobhan and the boys (P Ex. 14). When they do school projects related to mother and family, they reference Rita as mother (P E. 14). When they do school projects related to mother and family, they reference Rita as mother (P E's 15,16, 18, 19, 32). When the schools camps, community, temple and medical personnel reference these women, both are listed as mother (P Ex. 20-24).

Petitioner argues that one of the most critical pieces of evidence in favor of Petitioner's position is the agreement to "Jointly Raise our Child" which Rita Goodman and Siobhan La Piana executed at the time of the first child's birth. The agreement was followed by both parties and used to help raise both of the minor children.

Petitioner suggests the agreement accompanied by the actions of the two parties constitute waiver of Siobhan's exclusive right to parent the children and, in fact, relinquished a part of that time to Rita Goodman.

Counsel for the Petitioner argues that the controlling legal precedent is found in the cases of

*In re: Bonfield (2002), 96 Ohio St. 2d 218, and in re: Perales (1977) 52 Ohio St. 2d*

89. Petitioner suggests that the Ohio Supreme Court in Bonfield holds that a juvenile court has the jurisdiction to adjudicate a claim for shared custody pursuant to R.C. 2151.23 (A)(2) and that such exclusive jurisdiction cannot be avoided merely because an applicant is not a "parent" under R.C. 3109.04. Petitioner also argues that *In re: Fairchild (2002), Franklin County No. 01 JU-03-2542*, states that:

"...it is well settled law that 'parents who are suitable' persons have a 'paramount' right to custody of their minor children unless they forfeit that right by contract....."(Emphasis added).

Petitioner further argues that if a finding of unsuitability is necessary, a finding of contractual relinquishment of custody is sufficient to show unsuitability. Perales, 52, Ohio St 2d at 98.

After a full consideration of the testimony of the parties, an examination of the exhibits, a review of the applicable law and a review of the written arguments of counsel, it is ORDERED, ADJUDGED, and DECREED that:

1. Respondent Siobhan La Piana shall be named residential parent and legal custodian for the minor children, Solomon J. Lapiana and Jack K. La Piana.

2. All decisions regarding religion, physician selection, medical treatment, and school selection shall be made by the residential parent.

3. Petitioner Rita Goodman shall be entitled to notification of school events and activities and shall be entitled to reports of the boys academic progress and Respondent Siobhan La Piana shall provide her with the same. Rita Goodman shall be entitled to attend all school activities and events with the exception of parent/teacher conferences.

4. Petitioner Rita Goodman shall be entitled to the following companionship/visitation schedule:

A. Every other weekend from Friday evening at 5:00 pm (earlier by agreement) until Monday morning. During school periods Petitioner will deliver the children to school. During non school times Petitioner will deliver the children to Respondents residence by 9:00 am.

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C. When times of special meaning occur the parties will adjust the visitation and schedule and make up time any time missed.

D. Petitioner may have three uninterrupted weeks of summer visitation or may, by agreement, break up the weeks. Notice shall be given by Petitioner to Respondent at least 30 days in advance by certified mail.

E. Visitation may be expanded by agreement of the parties.

F. The Petitioner and the Respondent shall share the fees of the guardian ad litem equally and the parties shall be responsible for payment of their own attorney fees.

G. Should either the Petitioner or the Respondent elect to leave the jurisdiction of the

Court notice shall be provided to the other party. Nothing in this requirement is intended to indicate that permission shall be withheld.

H. The duties of the appointed guardian ad litem shall terminate with the filing of this judgment.

I. Any motions still pending and not specifically addressed by this Judgment Entry shall be dismissed.

The Court suggests that Petitioner may wish to contribute financially to the support of the minor children. A special bank account should be opened and all child related payment should be made from that account to avoid later disputes.

It is so Ordered!



---

Judge Jerry L. Hayes

August 05, 2008

Filed with the clerk and journalized by Cuyahoga County Juvenile Court Clerks Office,  
Volume 5, Page 7308, August 08, 2008, cijjn



2008 AUG 22 AM 9:24

EIGHTH DISTRICT COURT OF APPEALS -- LOCAL RULE NO. 9  
CLERK OF COURTS

In The Matter Of:  
Jack K. LaPiana

PRAECIPE

Rita Goodman

Plaintiff,

vs.

Siobhan LaPiana

Defendant.

Trial Court Case No. CU 07 101305

Date Of Final Judgment

In Trial Court August 8, 2008

The Notice Of Appeal Was Filed

Timely In Compliance With:

[X] App.R. 4(A)--within 30 days  
of the entry of judgment

[ ] App.R. 4(B)--exceptions to  
the 30-day requirement

TO THE CLERK OF THE TRIAL COURT:

- [X] 1. Appellant requests that the clerk immediately prepare and assemble the original papers and exhibits filed in the trial court and a certified copy of docket and journal entries.
- [X] 2. In addition, appellant will cause the record in this appeal to include the following (if applicable):
- [X] a. Complete transcript under Appellate Rule 9(B).
- [ ] b. Partial transcript under Appellate Rule 9(B).
- [ ] c. Statement of evidence or proceedings under Appellate Rule 9(C).
- [ ] d. Agreed statement under Appellate Rule 9(D).

1001 Lakeside Avenue #1720  
Cleveland, Ohio 44114  
(216) 589-9600

Katherine A. Friedell  
~~Appellant's~~ Attorney for Appellant

John E. Schoonover (0025623)

Katherine A. Friedell (0058423)

PLEASE NOTE:

1. The appellant must instruct the court reporter to prepare the transcript.
2. If the items checked above are not timely filed with the court, then the appeal will be dismissed. App.R. 10(A).

2008 AUG 22 AM 9:25

CLERK OF COURTS

EIGHTH DISTRICT COURT OF APPEALS -- LOCAL RULE NO. 9

In The Matter Of: DOCKETING STATEMENT  
Jack K. LaPiana

Rita Goodman

Trial Court Case No. CU 07 101305

Plaintiff,

vs.

Siobhan LaPiana

Defendant.

A. CHOOSE THE APPROPRIATE DESIGNATION FOR THIS CASE (check one):

- ☐ Accelerated calendar (see Loc.App.R. 11.1.)
- ☒ Regular calendar
- ☐ Denial of bail appeal
- ☐ Appeal (check one of the following):
  - ☐ A. From an order granting or denying:
    - 1. Adoption of a minor child; or
    - 2. Termination of parental rights. See App.R. 11.2.
  - ☐ B. Concerning a dependent, neglected, unruly, or delinquent child. See App.R. 7(C).

(Item A of this docketing statement was adopted at the Judges meeting on February 15, 2001 to comply with Appellate Rule 11.2.)

Assigned to the accelerated calendar for the reason(s) checked (see Local Rule 11.1).

- ☐ 1. No transcript required.
- ☐ 2. Transcript and all other evidentiary materials consist of one hundred (100) or fewer pages.

Assigned to the regular calendar with full briefing for the reason(s) checked.

- ☒ 1. Transcript and all other evidentiary materials are more than one hundred (100) pages.
- ☒ 2. Brief in excess of fifteen (15) pages is necessary to argue the issues adequately.
- ☐ 3. Appeal concerns unique issue of law that will be of substantial precedential value in determining similar cases.
- ☐ 4. Appeal concerns multiple or complex issues.

☐ 5. A statement is submitted under App. R. 9(C).

B. THE FOLLOWING QUESTIONS APPLY TO ALL CIVIL AND ADMINISTRATIVE APPEALS:

1. Final appealable order:

(a) Has the trial court disposed of all claims by and against all parties?

☒ Yes. Attach copies of all judgments and orders indicating that all claims against all parties have been dismissed.

☐ No.

(b) If the answer to (a) is "No," has the trial court made an express determination that there is "no just reason for delay," per Civ.R. 54(B), with respect to the judgment or order from which the appeal is taken?

☐ Yes, in the same judgment or order.

☐ Yes, in a subsequent order dated \_\_\_\_\_. Attach a copy of the subsequent order.

☐ No.

(c) Is the judgment or order subject to interlocutory appeal under R.C. 2505.02 (check all that apply)?

☐ Yes, because the order affects a substantial right in an action and prevents a judgment. See R.C. 2505.02(B)(1).

☐ Yes, because the order was made in a special proceeding. See R.C. 2505.02(B)(2).

☐ Yes, because the order vacates or sets aside a judgment or grants a new trial. See R.C. 2505.02(B)(3).

☐ Yes, because the order grants or denies a provisional remedy and meets the other criteria of R.C. 2505.02(B)(4).

☐ Yes, because the order determines that an action may or may not be maintained as a class action. See R.C. 2505.02(B)(5).

☒ No.

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COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY

(d) Does the right to an immediate appeal arise from a provision of a statute other than R.C. 2505.02?

☐ Yes. Identify statute: \_\_\_\_\_.

☒ No.

NOTE: IF THE ANSWER TO ALL OF THE ABOVE IS "NO," THE ORDER IS NOT A FINAL APPEALABLE ORDER, AND THE APPEAL WILL BE SUMMARILY DISMISSED FOR LACK OF APPELLATE JURISDICTION.

2. Nature of case:

- ☐ Administrative Appeal
- ☐ Contract
- ☐ Declaratory Judgment
- ☐ Domestic Relations
- ☒ Juvenile
- ☐ Medical Malpractice
- ☐ Personal Injury
- ☐ Probate
- ☐ Other (describe): \_\_\_\_\_

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CLERK OF COURTS  
COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY  
FILED

3. Do you know of another case pending before this court that raises the same issue or issues?

☐ Yes ☒ No

If yes, please cite the case(s): \_\_\_\_\_

4. Does the appeal turn on an interpretation or application of a particular case or statute?

☒ Yes ☐ No

If yes, please cite the case(s) or statute(s): See attached.

5. How would you characterize the extent of your settlement discussions before judgment?

- ☐ None
- ☐ Minimal
- ☒ Moderate
- ☐ Extensive

6. Have settlement discussions taken place since the judgment or order appealed from was entered?

☐ Yes ☒ No

7. Would a prehearing conference assist the resolution of this matter?

☐ Yes ☒ No ☐ Maybe

Please explain (optional): \_\_\_\_\_

8. Briefly summarize the assignments of error presently anticipated to be raised on appeal. (Attach a separate sheet if necessary.)  
See attached.

1001 Lakeside Avenue #1720  
Cleveland, Ohio 44114  
(216) 589-9600

*Katherine A. Friedell*  
~~Appellant~~ Attorney for Appellant

John E. Schoonover (0025623) / Katherine A. Friedell  
(0058423)

The primary purpose of a prehearing conference is to encourage the parties to explore any possibilities there may be for settlement of the case before incurring additional expenses or, if that is not possible, to limit the issues.

Loc.App.R. 20(E) provides that this court may assess reasonable expenses, including attorney fees, assess all or a portion of the appellate costs, or dismiss the appeal for failure to comply with provisions of this Rule.

[Amended Eff. July 1, 1999.]

2008 AUG 22 AM 9:25  
CLERK OF COURTS  
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COURT OF COMMON PLEAS  
JUVENILE COURT DIVISION  
CUYAHOGA COUNTY

COURT OF COMMON PLEAS, JUVENILE COURT DIVISION  
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF: JACK K. LAPIANA

CASE NO : CU07101305

JUDGE: Kristin W. Sweeney

Journal Entry

Rita Goodman

Petitioner

VS

Siobhan La Piana

Respondent

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It is so Ordered!



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Judge Jerry L. Hayes

August 05, 2008

Filed with the clerk and journalized by Cuyahoga County Juvenile Court Clerks Office,  
Volume 5, Page 7308, August 08, 2008, cijjn

**Attachment to paragraph 4 of Docketing Statement, Case nos. CU 07 101304 and 101305**

*In re Cheyenne Madison Jones* (2002, Miami County), 2002 Ohio App. Lexis 2296

*Liston v. Pyles* (1997, Franklin County), 1997 Ohio App. LEXIS 3627

*In re Perales* (1977), 52 Ohio St. 2d 89

*Masitto v. Masitto* (1986), 22 Ohio St. 3d 63

*State ex rel. Fowler v. Smith* (1994), 68 Ohio St. 3d 357

*State ex rel. Lundsford v. Buck* (1993), 88 Ohio App. 3d 425

*In Re Bonfield* (2002), Ohio St. 3d 218

*In re Randy B. Weiner*, Case No. CU 07101683 (Cuyahoga County Juvenile Court)

*Troxel v. Granville* (2000), 530 U.S. 57

Article XV, Section 11 to the Ohio Constitution (2004)

R.C. 3107.084

R.C. 3109.04

R.C. 3109.05

R.C. 3109.051(B)(1)

R.C. 3109.11

R.C. 3109.12

R.C. 2151.23

**Attachment to paragraph 8 of Docketing Statement, Case nos. CU 07 -01304 and -101305**

The Trial Court erred and abused its discretion as follows:

1. by granting to Petitioner-Appellee, who is not a parent or relative of the minor children of Respondent-Appellant, weekend and midweek visitation with the minor children and access to them on days of special meaning; by granting Petitioner-Appellee three weeks of summer vacation with Respondent-Appellant's minor children; by granting Petitioner-Appellee the right to notification of the minor children's school events and activities and to reports of their academic progress; by granting Petitioner-Appellee the right to attend the minor children's school activities and events when Respondent-Appellant, as the sole parent of the minor children, has the fundamental right to make all decisions regarding the care, custody and control of her minor children; and, therefore, by failing to find that Petitioner-Appellee is not entitled under the law to any of the rights that the trial court granted her;
2. by having granted Petitioner-Appellee's Motion for the Appointment of a Guardian *ad litem* before determining whether Respondent-Appellant, the sole parent of the minor children, was unsuitable; and then, not finding her to be unsuitable, failing to immediately dismiss the matter in front of the Court, and failing to find that there was no need for a guardian *ad litem*;
3. by having failed to grant Respondent-Appellant's Motion to Dismiss Petitioner-Appellee's Application to Determine Custody and/or Motion to Establish Shared Parenting and/or Motion to Establish Rights of Companionship by Person with Significant Relationship with a Child (R.C. 3109.04, 2151.23, 3109.051) filed on February 9, 2007, when Petitioner-Appellee, a person unrelated to the Respondent-Appellant's minor children, had no basis under the law for her Application and Motions under the law.