PREPARED BY THE COURT:

ELLEN B. RICHMOND,	**SUPERIOR COURT OF NEW JERSEY**
	CHANCERY DIVISION: FAMILY PART
	COUNTY OF MORRIS
Plaintiff,	
	DOCKET NO. FD-14-49-15
v.	
ALEKSANDER NATANSON,	**CIVIL ACTION**
Defendant.	**ORDER AND STATEMENT OF REASONS**

FILED
JUN 24 2022
Vijayant Pawar, J.S.C.

THIS MATTER, having been brought before the Court by Notice of Motion filed by Ellen B. Richmond ("Plaintiff"), represented by Jacobs Berger, L.L.C. (Amy L. Miller, Esq., appearing), against Aleksander Natanson ("Defendant"), represented by Keith, Winters & Wenning, L.L.C. (Brian Winters, Esq., appearing); and the Court having held a plenary hearing on March 17, 2022, March 31, 2022, April 27, 2022, May 12, 2022, and June 8, 2022; and having read and considered the papers submitted; and for good cause shown:

IT IS, on this 24th day of JUNE, 2022, **ORDERED AS FOLLOWS**:

1. The Plaintiff's motion is **GRANTED**.
2. The Plaintiff shall have limited medical custody of the minor child, Kira O. Richmond (DOB: 05/07/14), for the sole purpose of vaccinating the minor child against COVID-19.
3. All other requests are **DENIED WITHOUT PREJUDICE**.

HON. VIJAYANT PAWAR, J.S.C.

Statement of Reasons
Ellen B. Richmond v. Aleksander Natanson
FD-14-49-15

Factual Background

This matter was brought before the Court by way of Notice of Motion, filed by the Plaintiff, requesting the Court to grant the Plaintiff with sole medical custody and permit the Plaintiff to vaccinate the parties' minor child against COVID-19. The parties were previously in a dating relationship and have one (1) minor child: Kira O. Richmond (DOB: 05/07/14). The minor child is in second grade at the Catherine A. Dwyer Elementary School in Rockaway, New Jersey. By private agreement, the parties share joint legal custody of the minor child, with the Plaintiff serving as the Parent of Primary Residence and the Defendant exercising parenting time every other weekend from Thursday night to Sunday night.

The present motion was initially filed as an Emergent Application by the Plaintiff. However, the Court denied the Plaintiff's Emergent Application on December 10, 2021. Specifically, the Court found that the Plaintiff failed to demonstrate that irreparable harm would result if immediate relief was not granted. In support of this determination, the Court opined that "[w]hile the Court takes judicial notice of the directives given by the State of New York, the City of New York, and the State of New Jersey regarding the recommendation of COVID-19 vaccinations for children between the ages of 5 and 11, the Court notes that none of these directives mandate immediate vaccination for minor children, even in the face of the [then]-spreading Omicron variant. More significantly, the Court reviewed the Plaintiff's submission of the minor child's pediatrician's recommendation and finds that, while the pediatrician recommended the COVID-19 vaccine, she specifically mentioned that the vaccine is 'not mandated.' Moreover, the pediatrician's letter did not indicate any underlying conditions that put the minor child at imminent risk of contracting COVID-19 beyond regular precaution and did not specifically recommend that the minor child be vaccinated for reasons related to her individual health." However, the Court converted the Plaintiff's Emergent Application into a motion.

On January 26, 2022, the Court held a Case Management Conference and determined the need for a plenary hearing on the issue of medical decision-making regarding COVID-19 vaccination.

Plenary Hearing

The Court held a five-day plenary hearing on the issue of the minor child's vaccination against COVID-19. The parties appeared before the Court on March 17, 2022, March 31, 2022, April 27, 2022, May 12, 2022, and June 8, 2022.

The Plaintiff called Dr. Eugene Shapiro as her first witness. Dr. Shapiro testified that he currently serves as a Professor of pediatrics, with a focus on epidemiology and infectious diseases, at the Yale University School of Medicine and the Yale Graduate School of Arts and Sciences. As part of his duties, Dr. Shapiro testified that he regularly treats and sees patients and is Board-certified in both general pediatrics and infectious diseases. Regarding his educational background, Dr. Shapiro testified that he earned his B.A. in English Literature from Yale College and his M.D. from the University of California – San Francisco. Following medical school, Dr. Shapiro testified that he completed his pediatric residency at the Children's Hospital of Pittsburgh, where he completed a fellowship in pediatric infectious diseases. Further, Dr. Shapiro testified that he completed a fellowship at Yale School of Medicine in clinical epidemiology. Dr. Shapiro also testified to his experience as a medical consultant to government organizations and advisory boards, including the World Health Organization, the Advisory Committee on Immunization Practices ("ACIP"), the U.S. Food and Drug Administration ("FDA") Biologics Advisory Committee, the United Kingdom Department of Health, and the Netherlands Department of Health. Moreover, Dr. Shapiro testified that he served on the sub-Board of Infectious Diseases, under the American Board of Pediatrics, for six years, where he served as the chair of the sub-Board during the final year of his tenure. Dr. Shapiro further testified that he has previously served as an expert witness "a couple dozen times." The Court qualified Dr. Shapiro as an expert witness in general pediatrics and infectious diseases.

The Plaintiff entered exhibit P-3, Dr. Shapiro's report dated February 16, 2022, into evidence. Dr. Shapiro testified that he prepared the report after looking through the minor child's full medical records, including her complete immunization records and ultimately recommended that the minor child be vaccinated against COVID-19 due to the "overwhelming scientific evidence" that the vaccine is safe and effective for children aged five to eleven years. In his expert opinion, Dr. Shapiro testified that he believed it was in the best interest of the minor child to be administered the COVID-19 vaccine. Regarding the infection itself, Dr. Shapiro clarified that SARS-CoV-2, a coronavirus, causes the disease known as "COVID-19," which is an acute respiratory syndrome. Dr. Shapiro testified that the SARS-CoV-2 virus is transmitted between

humans through respiratory droplets, which contain viral particles that can come in contact with the epithelial surface of another person's nose or mouth, which may then initiate infection. In Dr. Shapiro's opinion, the most effective way to protect against COVID-19 is through vaccination. Dr. Shapiro clarified that individuals can also wear a mask, which reduces the quantity of respiratory droplets that are expelled through the mouth and nose. Dr. Shapiro explained that this, in concert with social distancing, can reduce the chance of transmission of COVID-19, but does not eliminate it. Dr. Shapiro testified that, generally, the potential symptoms of COVID-19 are broad and can range from asymptomatic reactions, where the individual presents no symptoms but is still infected, all the way to a cough, a headache, the loss of taste and smell, diarrhea, pneumonia, seizures, cardiac abnormalities, and death. Dr. Shapiro further testified that these symptoms can arise in children aged between five and eleven years.

Dr. Shapiro also testified about the risk of Multisystem Inflammatory Syndrome in Children ("MIS-C"), which is an inflammatory disease in children that arises after an infection, including COVID-19. Dr. Shapiro described that MIS-C, which appears as an acute serious infection, presents in varying levels of symptoms, including septic shock, high fever, chest pains, seizures, coma, and low blood pressure. However, Dr. Shapiro testified that the infection can be mild and may not require hospitalization, but that roughly five to ten percent of children die from MIS-C.

While discussing the variants of SARS-CoV-2, Dr. Shapiro explained the mechanics of a virus and its ability to initiate infection. Dr. Shapiro testified that the SARS-CoV-2 virus is an RNA virus, or a virus that has ribonucleic acid ("RNA") as its genetic material, and therefore it cannot replicate by itself. Instead, Dr. Shapiro continued, the RNA virus must enter a host cell and utilize its cellular machinery to replicate and spread. Dr. Shapiro explained that the SARS-CoV-2 virus has "spike proteins" on its surface, which attach to a cell and facilitate transfer of the virus, and are also made of amino acids, which are genetically encoded by nucleic acids. Because of the high rate of replication, Dr. Shapiro testified that chance mutations of the virus are inevitable; once the nucleic acids are mutated, thereby altering the amino acids that make up the spike protein, the spike protein can better facilitate transfer of the virus into the cell. Dr. Shapiro further testified that mRNA, or "messenger" RNA, vaccines utilize this method of transmission by delivering information to human cells to create a replica of the virus' spike proteins, which triggers the body's immunity response to produce antibodies to bind to the spike proteins and prevent the virus from getting inside the cells. Over time, Dr. Shapiro clarified, this clears out the virus from the bodies.

Dr. Shapiro further opined that, when mutations happen, they can change the properties of the virus and its infectiousness. Specifically, Dr. Shapiro identified the Delta variant of SARS-CoV-2, which he testified was more transmissible than the Alpha, or original, variant and more likely to replicate faster, and the Omicron variant, which he testified was even more infectious than the Delta variant. Even so, Dr. Shapiro testified that COVID-19 vaccines remained 90-95% effective against the Delta variant and, while the vaccines were only 50% effective in preventing any infection from the Omicron variant, they remained roughly 90% effective in preventing serious infection, hospitalization, or death caused by the Omicron variant.

Regarding the development of COVID-19 vaccines, Dr. Shapiro testified that the FDA approved the Moderna and Pfizer-BioNTech vaccines under an emergency use authorization, but later granted full authorization to administer the vaccines to those aged 16 years and up. Dr. Shapiro asserted that the lag in approving full authorization to lower age groups is not because of an uncertain risk of adverse reactions in children, but rather because children cannot consent and the FDA waits for more available data before expanding authorization to lower age groups. Functionally, Dr. Shapiro testified that the main difference between an emergency use authorization and full authorization is the amount of total observed data that is required to pass through the expedited approval process. For children aged between five and eleven years, Dr. Shapiro testified that there is, generally, no causal connection of the COVID-19 vaccine to any adverse reaction. Contrastingly, Dr. Shapiro testified that, while there are generally lower rates of hospitalization and death from COVID-19 infection in children aged between five and eleven years, COVID-19 is one of the ten leading causes of death for children in that age group. Dr. Shapiro expanded that, "100% of those deaths" were in unvaccinated children. Accordingly, Dr. Shapiro testified that he agrees with the recommendations of the Centers for Disease Control and Prevention ("CDC"), the American Association of Pediatrics ("AAP"), and the New Jersey Department of Health that the benefits of the vaccine outweigh any of the medical risks, and even the "theoretical risks." More specifically to the minor child, Dr. Shapiro testified that a child with no underlying health conditions, within the age group of five to eleven years, should receive the vaccine. Dr. Shapiro recommended that, within a reasonable degree of medical certainty, it is in the minor child's best interest to receive the vaccination against COVID-19.

On cross examination, Dr. Shapiro was questioned about the Vaccine Adverse Event Reporting System ("VAERS"), which is a passive reporting system where anyone, including healthcare providers, patients, or a third party, may file a report of an adverse event occurring after

a medical event, such as taking medication or receiving a vaccine. Due to the passive nature of the reporting system, Dr. Shapiro testified that there is no monitoring of the veracity of reports that are filed, but he explained that the VAERS system is a supplemental means of identifying abnormal signals of adverse reactions. Regarding the COVID-19 vaccine, Dr. Shapiro conceded that the COVID-19 vaccines were designed for the Alpha variant and its effectiveness waned over successive variants. However, Dr. Shapiro opined that the goal of vaccines is not to prevent infection altogether, but to prevent serious infection and that the Pfizer vaccine, in particular, still prevents 75% of hospitalization in children due to COVID-19. Dr. Shapiro acknowledged the risk of myocarditis, or inflammation of the heart, for children aged between five and eleven years, but he asserted that the risk was low, since only 70 cases per million doses were reported and were largely found in adolescent males aged twelve to fifteen. Dr. Shapiro similarly asserted the risk was low of the minor child receiving complications from Guillan-Barré Syndrome, a neurological disease in which the protective myelin sheath around an individual's nerves degrades, which was attributed to some vaccines, but not directly linked to COVID-19 vaccines.

On re-direct examination, the Plaintiff's counsel raised the Defendant's counsel's line of questioning regarding the VAERS system, where Dr. Shapiro testified that, if abnormal signals are identified from VAERS reports, public health agencies will inquire further regarding the identified adverse event. Dr. Shapiro testified that he was not aware of any abnormal signals related to the COVID-19 vaccine in children aged five through eleven identified through VAERS. Dr. Shapiro further testified that he was not aware of the CDC or FDA changing their recommendations regarding COVID-19 vaccines based on any identified abnormal signal from the VAERS system. Rather, Dr. Shapiro testified that that the primary side effects of the COVID-19 vaccines are fever, sore arm, and tiredness, which are the same symptoms that arise from a flu vaccine. Specific to the minor child, Dr. Shapiro testified that the minor child received flu vaccines in the past and had no abnormal reactions to prior vaccines. In his expert opinion, Dr. Shapiro testified that it was highly unlikely that a child, like the minor child, who has not had any prior adverse reactions to vaccines would experience an adverse reaction from the COVID-19 vaccine. Further, Dr. Shapiro testified that there is no causal connection between the COVID-19 vaccine and Guillan-Barré Syndrome.

The Plaintiff called herself as her second witness. The Plaintiff testified that the parties privately agreed to share joint legal custody of the minor child, where the Plaintiff is the Parent of Primary Residence. Per the parties' agreement, the Plaintiff testified that the Defendant exercises parenting time every other weekend from Thursday night at 7:00 P.M. to Sunday night at 6:00

P.M. The Plaintiff further testified that she lives in Dover, New Jersey with her mother, who is in her mid-70s and has thyroid and cardiac issues. After the COVID-19 vaccine was approved for children aged five to eleven years, the Plaintiff testified that she wanted to vaccinate the minor child and booked the first available date. The Plaintiff entered exhibit P-12 into evidence, which was an email dated November 3, 2021 between the parties indicating that the Plaintiff was making the vaccine appointment for the minor child. The Plaintiff also entered into evidence exhibit P-13, an email from the Plaintiff to the Defendant dated November 4, 2021, and exhibit P-14, an email exchange between the parties from November 11, 2021 to December 9, 2021. Based on these exhibits, the Plaintiff testified that the Defendant never reached out to discuss the COVID-19 vaccine, until his counsel contacted the Plaintiff's counsel.

In turn, the Plaintiff testified that she filed the Emergent Application, which initiated the present matter, to ensure that the minor child remains healthy by receiving the COVID-19 vaccine. The Plaintiff entered exhibit P-11, a letter from the minor child's pediatrician, Dr. Michelle Heller-Barlekamp, indicating her recommendation that the minor child be vaccinated against COVID-19. The Court notes that this same letter was raised in support of the initial Emergent Application filed by the Plaintiff, and just as in the Order dated December 10, 2021, the Court finds that "while the pediatrician recommended the COVID-19 vaccine, she specifically mentioned that the vaccine is 'not mandated.' Moreover, the pediatrician's letter did not indicate any underlying conditions that put the minor child at imminent risk of contracting COVID-19 beyond regular precaution and did not specifically recommend that the minor child be vaccinated for reasons related to her individual health." The Plaintiff also entered exhibit P-5, a list of the minor child's vaccinations, showing that the minor child received all recommended vaccines and flu shots, except for the COVID-19 vaccination, and further testified that the Defendant has never previously objected to any of the minor child's other vaccinations. The Plaintiff testified that the minor child has also never had a severe adverse or minor adverse reaction to any of her prior vaccines. In addition, the Plaintiff entered exhibit P-16, a letter from the minor child's school's superintendent dated March 3, 2022, describing the masking and quarantine protocol for in-person learning at the minor child's school. Exhibit P-16 shows that the children at the minor child's school had to wear masks in class and must quarantine if they come in close contact with someone exposed to COVID-19, which would require virtual learning during the quarantine period. The Plaintiff also entered exhibits P-8, P-9, and P-10, which show agency recommendations for children within the age group of five to eleven

years to receive the COVID-19 vaccine, from the CDC, the AAP, and the New Jersey Department of Health, respectively.

On cross examination, the Plaintiff testified that she is aware that some individuals oppose vaccination of children, based on knowledge she gathered from watching the news. The Plaintiff conceded that the minor child has not been vaccinated over the last two years and has never contracted COVID-19. The Plaintiff further conceded that she is aware that incidences of transmission, hospitalizations, and deaths from COVID-19 are going down. Moreover, the Plaintiff conceded that rules at the minor child's school have become less restrictive over the last six months, as related to COVID-19 testing, masking, in-person/hybrid education, and social distancing. However, the Plaintiff testified that the school's quarantine guidelines are more restrictive upon children who are unvaccinated. Regardless, the Plaintiff testified that her position regarding the minor child's vaccine is predicated on a cost-benefit analysis, in which she believes that the benefits of the COVID-19 vaccination outweigh any risks, although she concedes that risks exist. Regarding the minor child's current protocol, as related to COVID-19 precautions, the Plaintiff testified that the minor child still wears a mask regularly, including in places where it is not required, aside from outdoor locations.

On re-direct examination, the Plaintiff testified that having knowledge of loosening restrictions, as related to COVID-19, does not change her opinion regarding the minor child's vaccination. While the Plaintiff conceded that hospitalization rates have reduced over the last six months, the Plaintiff cited a similar decrease from Winter 2020 to Summer 2021, but that the hospitalization rates increased following Summer 2021. In the Plaintiff's opinion, the benefits of the vaccine would be that the minor child would be protected against COVID-19 and would no longer have to wear a mask. Further, the Plaintiff testified that any risk of arm soreness after inoculation would likely go away, since it is a similar side effect that arises with other vaccinations. Regarding the side effect of fever, the Plaintiff testified that she is not concerned about this side effect since it can occur with other vaccines, and the minor child has never experienced such adverse reactions with prior vaccinations. Additionally, the Plaintiff lamented against the chance of the minor child having to participate in virtual learning if she is exposed, since the Plaintiff believes it is not beneficial for the minor child due to its lack of in-person interaction with teachers and peers. The Plaintiff also testified that older relatives of the minor child are hesitant to be around the minor child due to her unvaccinated status and that playdates have been cancelled for the same reason. The Court found the Plaintiff's testimony to be very credible.

The Plaintiff called Dr. Michelle Heller-Barlekamp, the minor child's pediatrician, as her third witness. Dr. Heller-Barlekamp testified that she currently works as a pediatrician at West Morris Pediatrics. Dr. Heller-Barlekamp further testified that she has been licensed since 2011 and Board-certified since 2015. The Defendant stipulated to qualify Dr. Heller-Barlekamp as an expert witness in the field of pediatrics.

The Plaintiff entered exhibit P-19, the minor child's medical records, into evidence. Dr. Heller-Barlekamp testified that her office prepared the medical records for the minor child. Dr. Heller-Barlekamp further testified that the minor child received a flu vaccination in her office and did not exhibit any adverse reactions. Moreover, Dr. Heller-Barlekamp testified that the minor child did not exhibit adverse reactions from any of her prior vaccines. Regarding her patients in general, Dr. Heller-Barlekamp has not seen any instances of hospitalization or death due to COVID-19 vaccination. Regarding the minor child specifically, Dr. Heller-Barlekamp testified that nothing in the minor child's medical records signal that she would be at higher risk of severe adverse reactions to COVID-19 vaccination. Based on her experience with the minor child, Dr. Heller-Barlekamp considers her to be a "healthy" child, but she maintains her recommendation for the minor child to receive the vaccination, since being unvaccinated prevents the minor child's ability to fully participate in her schooling and engage in socialization. Since COVID-19 vaccination eligibility has expanded to children in the age group of five to eleven years, Dr. Heller-Barlekamp testified that her recommendation did not change. In her expert opinion, Dr. Heller-Barlekamp testified that the benefits of receiving the COVID-19 vaccine outweigh the risks.

On cross examination, Dr. Heller-Barlekamp conceded, regarding COVID-19 variants, that a child can still contract COVID-19 from these variants after receiving the vaccine. Specifically, she conceded that the Pfizer-BioNTech vaccine was designed for the Alpha variant, but she asserted that the vaccine remains effective against preventing hospitalization or death.

On re-direct examination, Dr. Heller-Barlekamp testified that she made her recommendation in reliance on government agency directives, including the CDC, the AAP, and the New Jersey Department of Health, recommending COVID-19 vaccines for children between the ages of five and eleven.

The Plaintiff rested her case and called no further witnesses.

The Defendant began his case by calling himself as his first witness. The Defendant testified that he currently lives in Brooklyn, New York. Further, the Defendant testified that the parties share joint legal custody of the minor child and, by private agreement, he exercises

parenting time every other Thursday through Sunday. As part of the parties' joint legal custody arrangement, the Defendant testified that medical decisions concerning the minor child should be made mutually between the parties. While the Plaintiff believes it is in the best interest of the minor child to receive the COVID-19 vaccination, the Defendant opposes vaccination because of its side effects and potential adverse reactions. In his estimation, the Defendant considers the risks of COVID-19 vaccines to be potential neurological or cardiological adverse reactions, including death, and asserts that the effectiveness of the vaccine wanes over time for the children aged between five and eleven years. Moreover, the Defendant objects to the vaccine due to the lack of long-term data on any side effects of adverse reactions. The Defendant testified that he believes more studies need to be completed regarding the vaccine because the potential side effects "could be felt in the next generation" and therefore "no one really knows what they are." Further, the Defendant believes that there is little benefit for young children to receive the COVID-19 vaccine. The Defendant testified that the vaccine is only beneficial if an individual is in a "high-risk" category or is immunocompromised. However, the Defendant conceded that he has consented to the minor child being vaccinated for other conditions, excluding COVID-19. Regarding the minor child's quarantine policies, the Defendant testified that the virtual learning option is actually beneficial for the minor child and does not believe that the minor child is restricted from any activities due to her vaccination status.

On cross examination, the Defendant conceded that the potential side effects from COVID-19 vaccination are the same as the side effects of the flu vaccine, including arm soreness and fever. The Defendant also conceded that he is aware that some children within the age group of five to eleven years have been seriously harmed due to exposure to the SARS-CoV-2 virus, including being placed on ventilators, but he did not find that fact to be relevant. The Defendant also testified that he was not aware of the long term effects related to COVID-19 vaccination and children within the minor child's age group. In turn, the Defendant testified that he would not agree to COVID-19 vaccination even if all relevant government agencies recommended it. The Court notes that the Defendant was evasive in his responses and, at times, failed to answer relevant questions.

The Defendant called Dr. Angelina Farella, a pediatrician based in Texas, as his second witness. The Plaintiff stipulated to qualify Dr. Farella as an expert witness in general pediatrics. The Defendant entered D-1, Dr. Farella's report, into evidence that included her recommendation regarding COVID-19 vaccination for young children. Dr. Farella testified that, in her professional opinion, it is not medically advisable for children in the age group of five to eleven years to receive

the COVID-19 vaccine. She testified that COVID-19 was similar to a common cold and that no one vaccinates against the common cold. Dr. Farella testified that she has never introduced, even an FDA-approved drug, to her patients until it has been on the market for three years. Dr. Farella further testified that young children already have robust immune systems to protect against coronaviruses. In her experience, Dr. Farella testified that she did not see children in this age group exhibiting any incidence of hospitalization during the height of the COVID-19 pandemic. As an analogy, Dr. Farella compared the strength of young children's immune systems, in response to coronaviruses, to their response to chickenpox. Dr. Farella testified that, if a minor child were to previously contract chickenpox, they would not be vaccinated against chickenpox due to the strength of their natural immune response. Specific to COVID-19 vaccination, Dr. Farella testified that there is a risk of adverse events for young children between the ages of five and eleven. As of February 2022, Dr. Farella recalled roughly 47,000 adverse events from the COVID-19 vaccine reported through VAERS.

Regarding the FDA's eligibility expansion for children aged five to eleven years to receive the COVID-19 vaccine, Dr. Farella testified that the vaccines were permitted specifically under an emergency use authorization, which should only be used to prevent serious infection. Dr. Farella testified that the risk of death from COVID-19 for children under the age of eighteen is low. Dr. Farella also testified regarding MIS-C and asserted that the COVID-19 vaccine hasn't been affirmatively proven to lessen the risk of MIS-C, but she clarified that it is not an issue that is being tested. Dr. Farella further testified that there is a higher risk of myocarditis occurring with children who are administered the COVID-19 vaccine. Dr. Farella testified that there are "no benefits" to COVID-19 vaccination and that her medical opinion was that the minor child should not be vaccinated. Regarding methods to prevent COVID-19 infection aside from vaccination, Dr. Farella testified that she administers her patients a Vitamin D regimen to subdue respiratory issues, recommends general nasal and mouth washes, and nasal and mouth washes with iodine.

On cross-examination, Dr. Farella conceded that she has never met the minor child, never treated her, and only reviewed part of her medical file. Dr. Farella further conceded that her recommendation against vaccination is not in line with the CDC, ACIP, AAP, and WHO. The Court notes that the Plaintiff objected to portions of Dr. Farella's testimony, as she was qualified as an expert pediatrician, but not as an expert in epidemiology or infectious diseases.

The Plaintiff then made a motion to bar Dr. Farella's testimony. The Court denied that motion and notes that Dr. Farella is an "expert" under N.J.R.E. 702 and is therefore allowed to express her opinion and explain the basis of her opinion.

Legal Analysis

The onset of the COVID-19 pandemic presented a growing existential threat to communities across the world. In the United States alone, the number of reported COVID-19 cases, which began with 88 reported cases in early March 2020, quickly spiked to 212,460 reported cases by the end of the month – resulting in 4,950 deaths. Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory, COVID Data Tracker, CENTERS FOR DISEASE CONTROL AND PREVENTION (June 17, 2022), https://covid.cdc.gov/covid-data-tracker/#trends_totalcases [hereinafter Trends in Number of COVID-19 Cases]. New Jersey courts have looked to the CDC and the New Jersey Department of Health regarding guidance on COVID-19. See In re City of Newark, 469 N.J. Super. 366 (App. Div. 2021); N.J. State Policemen's Benevolent Ass'n v. Murphy, 470 N.J. Super. 568 (App. Div. 2022). By the end of 2020, the United States reported roughly 20.1 million cases and 361,224 deaths. Trends in Number of COVID-19 Cases. Since then, the severity of the spread of COVID-19 has ebbed and flowed, with notable spikes in January 2021, where daily reported cases reached 293,309, and January 2022, where daily reported cases reached an astounding 1.3 million. Id. Despite these fluctuations, the pandemic remains ongoing. In fact, as of the date of this Order, the United States has cumulatively reported roughly 85.5 million cases and 1 million deaths due to COVID-19. Id.

In response to the devastating loss of human life caused by the spread of COVID-19, several pharmaceutical companies developed vaccinations to address the public health crisis. On December 11, 2020, the U.S. Food and Drug Administration ("FDA") issued the first emergency use authorization of a COVID-19 vaccine, which was manufactured by Pfizer and BioNTech. Press Release, U.S. Food and Drug Administration (Dec. 11, 2020), https://www.fda.gov/news-events/press-announcements/fda-takes-key-action-fight-against-covid-19-issuing-emergency-use-authorization-first-covid-19. On December 18, 2020, the FDA announced another emergency use authorization for a second COVID-19 vaccine, which was manufactured by Moderna. Emergency Use Authorization, U.S. FOOD AND DRUG ADMINISTRATION (June 17, 2022), https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-

framework/emergency-use-authorization. Following this, the FDA also issued an emergency use authorization for a third COVID-19 vaccine on February 27, 2021, which was manufactured by Janssen. Id. While the Janssen vaccine's emergency use authorization remains limited – specifically, for individuals of 18 years of age or older – the FDA issued full authorization for the Pfizer-BioNTech and Moderna vaccines on August 23, 2021 and January 31, 2022, respectively. Id. These approved vaccines have shown to be effective against COVID-19 and limiting the severity of the illness. See Ian D. Plumb, et al., Effectiveness of COVID-19 mRNA Vaccination in Preventing COVID-19-Associated Hospitalization Among Adults with Previous SARS-CoV-2 Infection – United States, June 2021-February 2022, CENTERS FOR DISEASE CONTROL AND PREVENTION (April 15, 2022), https://www.cdc.gov/mmwr/volumes/71/wr/mm7115e2.htm ("Among persons with previous SARS-CoV-2 infection or COVID-19 diagnosis, receipt of a COVID-19 mRNA vaccine provided protection against subsequent COVID-19 hospitalization. . . Findings from this report indicate that SARS-CoV-2 reinfections leading to COVID-19 associated hospitalizations are preventable by COVID-19 vaccination . . . [and when] [c]ompared with unvaccinated persons without previous infection, persons with a booster dose of mRNA vaccine have been estimated to have 90% protection against hospitalization with COVID-19 during the Omicron period.")

With the development of the aforementioned vaccines, people have been faced with the fundamental question of whether to get vaccinated. Similarly, parents across the country have been faced with the quandary of deciding whether or not to vaccinate their children. On October 29, 2021, the FDA expanded the emergency use authorization for the Pfizer-BioNTech vaccine to apply to children aged five to eleven. Press Release, U.S. Food and Drug Administration (Oct. 29, 2021), https://www.fda.gov/news-events/press-announcements/fda-authorizes-pfizer-biontech-covid-19-vaccine-emergency-use-children-5-through-11-years-age. Shortly after the FDA expanded the Pfizer-BioNTech vaccine's emergency use authorization, the Centers for Disease Control and Prevention ("CDC"), on November 2, 2021, endorsed the CDC Advisory Committee on Immunization Practices' recommendation that children aged five to eleven should be administered the vaccine. Press Release, Centers for Disease Control and Prevention (Nov. 2, 2021), https://www.cdc.gov/media/releases/2021/s1102-PediatricCOVID-19Vaccine.html#:~:text=Today%2C%20CDC%20Director%20Rochelle%20P,the%20Pfizer%2DBioNTech%20pediatric%20vaccine. This endorsement expanded vaccine recommendations to roughly 28 million children in the United States. Id. Despite the CDC's recommendation, the

vaccination rate of children in this age group remains low; as of June 15, 2022, the CDC reported that roughly 10.1 million children aged five to eleven, or 36%, received at least one dose of the COVID-19 vaccine, while 8.3 million children aged fived to eleven, or 29%, completed two doses. Summary of Data Publicly Reported by the Centers for Disease Control and Prevention, Children and COVID-19 Vaccination Trends, AMERICAN ACADEMY OF PEDIATRICS (June 15, 2022), https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-vaccination-trends/#:~:text=Child%20vaccination%20rates%20vary%20widely,67%25%20receiving%20their%20first%20dose.&text=About%207.9%20million%20children%2012,first%20COVID%2D19%20vaccine%20dose.

While the vaccination issue has become politicized on the national stage, even as indicated by the testimony in this case, the fact remains that the vaccine is not mandated. Rather, adults have been provided with the option to choose whether or not to be vaccinated against COVID-19. However, the issue becomes complicated when a minor child is involved, since they are unable to make that choice on their own. Even more complex is when the parents of the minor child are divorced or separated. In the present matter, the parties, who are separated, have a fundamental disagreement over whether or not to administer the COVID-19 vaccine to their minor child. While the Plaintiff believes the minor child would benefit from the vaccine, the Defendant objects. In turn, the Plaintiff has requested the Court to intervene and make a determination on the parties' behalf. Thus, the sole issue before the Court is whether it finds that it is in the best interest of the minor child to permit the Plaintiff to make the medical decision to vaccinate the minor child against COVID-19.

In any custody matter, the best interests of the child are a paramount consideration. Beck v. Beck, 86 N.J. 480, 497 (1981). Under N.J.S.A. 9:2-4, which outlines the statutory factors necessary for the Court to conduct a "best interest" analysis, the Court is authorized to enter an Order granting: 1) joint custody, 2) sole custody to one parent (with parenting time for the non-custodial parent), or 3) any other custody arrangement the Court determines is in the best interests of the child. At issue in the present matter is the third option, under N.J.S.A. 9:2-4(c), where the Court may exercise its sound discretion in determining a hybrid custody arrangement that addresses the specific circumstances affecting the child's welfare. Pascale v. Pascale, 140 N.J. 583, 596 (1995). This may include modification of joint custody, temporary sole custody, or sole custody for a limited purpose, if the Court believes it is in the best interests of the child. This

authority is further grounded in the Court's *parens patriae* authority to "protect and watch over the interests of a child," thereby permitting the Court to intervene and enter an Order that preserves a child's interests when the parents are unable to do so themselves. See In re Baby M, 217 N.J. Super. 313, 324 (Ch. Div. 1987), rv'd on other grounds, Matter of Baby M, 109 N.J. 396 (1988). Thus, when presented with a choice between parents' rights and children's rights, the Court must choose the children's welfare and best interests. In re J.R. Guardianship, 174 N.J. Super. 211, 224 (App. Div. 1980). In exercising this authority, the Court must also consider a minor child's present circumstances and the decisional factors affecting the minor child's welfare. See Horswell v. Horswell, 297 N.J. Super. 94, 104 (App. Div. 1997).

In the instant case, both parties testified that they share joint legal custody of the minor child. Under a joint legal custody arrangement, the post-divorce responsibility for making major decisions regarding a minor child's welfare is shared equally between the parents, regardless of which parent is designated as the Parent of Primary Residence or Parent of Alternate Residence. See Pascale, supra at 596; Beck v. Beck 86 N.J. 480, 486 (1981). This reflects the purpose and spirit of the State's public policy favoring joint custody, where the Court's prerogative is to "encourage separated or divorced parents to share the rights and responsibilities of child rearing." Hoefers v. Jones, 288 N.J. Super. 590, 601 (Ch. Div. 1994). This designation is more than an honorary title and requires joint legal custodians to exercise their ongoing responsibility to act in a child's best interests, including facilitating reasonable cooperation between the parents in matters affecting the welfare of the child. Madison v. Davis, 438 N.J. Super. 20, 46 (Ch. Div. 2014). Further, the Court notes that "'[t]hrough its legal custody component, joint custody seeks to maintain [attachments to both parents] . . . by permitting both parents to remain decision makers in the lives of the children.' The joint custody arrangement sanctioned in Beck was viewed as an alternative to sole custody, acceptable only in those few cases where both parties exhibit a potential for cooperation in matters of child-rearing . . . With no small degree of foresight, the Supreme Court recognized the potential lack of cooperation as the most 'troublesome' aspect of a joint custody arrangement." Brzozowski v. Brzozowski, 265 N.J. Super. 141, 144 (Ch. Div. 1993).

The Court also notes that "regardless of the words used to describe the custodial relationship, the residential custodial parent has been afforded somewhat more authority to decide issues in the event of a disagreement. The rationale for this . . . is that the parent with whom the child resides most of the time probably knows that child best, because of day-to-day exposure to the child and to the child's problems. . . . It is fully consistent with the reasonable expectations of

the parties, . . . that parent given the responsibility for the day-to-day rearing of the children should be able to discharge that responsibility." Pascale supra at 606. Further, "[a] joint custody agreement . . . by necessity also requires a common sense decision-making process sans court that advances the best interests of children, which frees the children from the web of parental deadlock." Brzozowski, supra at 141.

When joint custodians are no longer able to agree or communicate on matters relating to the child's welfare, the Court may exercise its jurisdiction to determine a modified custody arrangement if the evidence suggests that the parties cannot co-parent in a functional manner. See Nufrio v. Nufrio, 341 N.J. Super. 548, 555 (2001). More significantly, the Court must act when a child's welfare is forced to a standstill due to the parents' engagement in protracted litigation affecting the child's interests. Horswell, supra at 104. Therefore, when parties demonstrate the inability to reach a mutually acceptable agreement on a major decision affecting the child's health, joint custody may be subordinated so that one parent possesses decision-making authority on the disputed matter, ensuring immediate and decisive action.

As mentioned, the Court must conduct a best interest analysis under the statutory factors provided under N.J.S.A. 9:2-4, as follows:

1. The parents' ability to agree, communicate and cooperate in matters relating to the child.
2. The parents' willingness to accept custody and any history of unwillingness to allow parenting time not based on substantiated abuse.
3. The interaction and relationship of the child with its parents and siblings.
4. The history of domestic violence, if any.
5. The safety of the child and the safety of either parent from physical abuse by the other parent.
6. The preference of the child when of sufficient age and capacity to reason so as to form an intelligent decision.
7. The needs of the child.
8. The stability of the home environment offered.
9. The quality and continuity of the child's education.
10. The fitness of the parents.
11. The geographical proximity of the parents' homes.
12. The extent and quality of the time spent with the child prior to or subsequent to the separation.
13. The parent's employment responsibilities.
14. The age and number of the children.

While the issue of COVID-19 vaccination for minor children is a case of first impression for this Court, the Court is guided by New Jersey caselaw involving vaccinations in general. In

M.A. v. A.A., an unpublished opinion by the Appellate Division, two parents disagreed over whether to administer vaccinations for their minor child. 2021 N.J. Super. Unpub. LEXIS 1326 (2021). Similar to the present case, the parties in M.A. v. A.A. shared joint legal custody of the minor child, but the mother disagreed with vaccination for religious reasons. Ultimately, the Court affirmed the trial court's decision to appoint the father as the limited medical guardian, thereby permitting vaccinations for the minor child. The Appellate Division found that the trial court properly conducted a best interest analysis in finding that the father's medical custody would best serve the needs of the minor child. Id. at 19. Specifically, the appellate court found that the minor child had a prior medical condition, idiopathic thrombocytopenia purpura ("ITP"), and that the mother "failed to demonstrate . . . [that] there is a significant risk of [the minor child] experiencing a recurrence of ITP if immunized." Id. at 14. Further, the appellate court found that there was only "a '[three to five percent] chance of serious vaccine injury to the minor child.'" Id.

The Court also finds value in consulting persuasive authority from neighboring jurisdictions that specifically involve COVID-19. In J.F. v. D.F., the Supreme Court of New York directed a child to be vaccinated against COVID-19 despite the father's objection. Similar to New Jersey, New York courts are guided by the "best interests of the child" standard in adjudicating disagreements between joint legal custodians on major decisions affecting the welfare of the child. Unlike M.A. v. A.A., however, the child in J.F. v. D.F. did not have a prior medical condition that compromised her immune system. Rather, the source of the father's objection to the COVID-19 vaccine was the lack of information regarding the COVID-19 vaccine's short-term and long-term effects. As the Supreme Court of New York opined, "[w]aiting – to be 'sure,' as the father asks – is simply untenable, when the specter of a killing or incapacitating disease is swirling in the environment surrounding this young girl. The wait, requested by the father, could extend beyond the term of the virus, as scientists may never catch up to this ever evolving and elusive virus and variants. The scientific certainty that the father seeks about complications from the vaccine as a condition to agreeing to permit administration of the vaccine is not the horizon. This Court, weighing the child's best interests, cannot wait for the vaccine's side effects or efficacy to be scientifically established beyond a reasonable doubt or even to the father's satisfaction. The imminent risk of contracting the disease is too high and the consequences of acquiring it potentially too dire." The Court finds this reasoning to be persuasive, but not dispositive in rendering its decision today.

On the first factor under N.J.S.A. 9:2-4, the Court finds that the parties are generally able to agree, communicate, and cooperate in matters related to the minor child. The Court finds that the parties privately agreed on a custodial and parenting time arrangement, which the Court finds they have historically abided by, and are generally communicative on major decisions affecting the minor child. As related to the minor child's health, the Court finds that the parties previously were able to agree and confer on various immunizations and medical decisions for the minor child. While the present matter represents a break in the trend of the parties' reasonable communication and cooperation, the Court finds that the parties are not motivated by mutual vitriol in this case, but rather, by their genuine love for the minor child and desire to pursue what is in the minor child's best interests. Therefore, the Court finds the present dispute to only represent a fundamental disagreement between the parties and is not indicative of the parties' inability to agree, communicate, and cooperate in future decisions involving the minor child.

On the second factor, the Court finds that the parties have demonstrated a history of willingness to accept custody and parenting time. The Court finds that the parties did not execute an official agreement regarding their custodial and parenting time arrangement, but still privately agreed to share joint legal custody, with primary physical custody to the Plaintiff. The Court finds that the parties have generally maintained and respected this private agreement, where the Defendant has reasonably exercised his parenting time. Further, the Court found no evidence or testimony showing the parties' prior conduct or intention to deprive the other party's access to the minor child. Accordingly, the Court finds that the parties have no history of unwillingness to allow parenting time not based on substantiated abuse.

On the third factor, the Court finds that the parties have positive interactions and relationships with the minor child. The Court finds that the parties demonstrated their love for the minor child and want what is best for her. The Court also finds that the parties, through their testimony, exhibited their strong emotional and psychological bonds with the minor child. Regarding COVID-19 vaccination and other prevention methods, the parties both testified that the minor child's preference is important to them, but that it is not the only consideration in their decision-making, especially when the minor child's safety is in question. Moreover, the Court found no evidence or testimony establishing that either party had negative or distraught interactions with the minor child.

On the fourth factor, the Court finds no evidence of domestic violence between the parties. The Court shall not consider this factor in its analysis.

On the fifth factor, the Court finds no evidence of physical abuse from either party against the other party or the minor child. The Court shall also not consider this factor in its analysis.

On the sixth factor, the Court finds that the minor child is, as of the date of this Order, eight years old and is therefore still not of sufficient age and capacity to reason so as to form an intelligent decision regarding her vaccination status. While the Court notes that the Plaintiff testified that the minor child wants to receive the vaccine, the Court does not find that the minor child merely having an opinion on COVID-19 vaccination implies that her opinion is predicated on available data and safety considerations, thereby rendering an "intelligent decision" on the issue of vaccination. The Court notes that the Plaintiff's testimony regarding a potential stigma against masking and unvaccinated children demonstrates that the minor child's preference is partially based on social considerations rather than her medical safety. As such, the Court declines to give weight to the minor child's preference, under this factor, in its analysis.

On the seventh factor, the Court finds that the minor child has no special medical, learning, or developmental needs. The Court finds that, based on the minor child's submitted medical records and the direct testimony of Dr. Heller-Barlekamp, the minor child is a healthy child without any underlying medical conditions. As related to vaccinations, the Court finds that the minor child has been routinely immunized through her life and has not exhibited any adverse reactions to prior vaccinations or medications.

On the eighth factor, the Court finds that both parties provide stable home environments for the minor child. Since the issue of COVID-19 vaccination will not affect parenting time and any time the minor child spends in either parties' home, the Court will not consider this factor in its analysis.

On the ninth factor, the Court finds that the continuity and quality of the minor child's education would be affected if the minor child remains unvaccinated against COVID-19. Both parties testified to the minor child's school's COVID-19 policies regarding masking, testing, and quarantining, where the minor child would be required to quarantine and utilize virtual learning during that period if she is exposed, or comes into close contact with someone who is exposed, to COVID-19. While the parties argued over whether virtual learning is beneficial or detrimental to a child's learning, the Court agrees with the Plaintiff that virtual learning reduces interactions between the minor child and her teachers or peers, which are important components of socialization at the minor child's age. Therefore, the Court finds that remaining unvaccinated presents a higher likelihood that the minor child will have to undergo virtual learning, thereby

disrupting her ability to develop social bonds with her teachers and peers. However, the Court notes that being vaccinated does not alone eliminate the risk of transmission, since breakthrough transmission is still possible after vaccination. Thus, the minor child may also have to undergo virtual learning if vaccinated. Still, the Court finds that this factor skews towards the Plaintiff's position to vaccinate the minor child, because, as Dr. Shapiro testified, COVID-19 vaccines remain highly effective against preventing serious adverse reactions, hospitalization, or death, regardless of variants or waning dosage. The severity of the minor child's response to transmission of the SARS-CoV-2 virus is important to consider here, since it affects the length of time the minor child must be out of school and in virtual learning if exposed to COVID-19. Accordingly, the Court finds that, under this factor, the continuity and quality of the minor child's education would be affected if she remains unvaccinated against COVID-19.

On the tenth factor, the Court finds that both parties have demonstrated their parental fitness to care for the minor child. However, the Court finds that the Plaintiff, as the Parent of Primary Residence, is better suited to credibly provide testimony regarding the day-to-day issues that arise as a result of the minor child's vaccination status. The Defendant, on the other hand, who visits with the minor child every other weekend for his parenting time, testified that the minor child remaining unvaccinated does not pose any restrictions on her activities nor will it affect the minor child's daily life. The Court does not find this testimony to be credible due to his limited personal knowledge, as the non-custodial parent with limited parenting time, on the minor child's day-to-day activities. Even if the Court were to consider this testimony, the Defendant also testified during his cross-examination that he would not take the minor child to events where vaccination is required, thereby conceding that the minor child's activities and daily life would be affected if she remains unvaccinated. While the Court does not construe this to indicate the Defendant's lack of parental fitness, the Court shall give heavier weight to the Plaintiff's fitness as a parent in considering how vaccination status will affect the minor child's daily life.

On the eleventh factor, the Court finds that the parties are geographically proximate enough to facilitate their custodial and parenting time arrangement. The Court finds that the Plaintiff lives in Dover, New Jersey while the Defendant lives in Brooklyn, New York. However, the Court does not find that this factor is dispositive in determining whether the minor child should be vaccinated. Therefore, the Court shall not consider this factor in its analysis.

On the twelfth factor, the Court finds that both parties have spent quality parenting time with the minor child both prior to and after the parties' separation. As previously discussed, the

Court finds that the parties have strong emotional and psychological bonds with the minor child and are genuine in their desire to advance the minor child's best interests.

On the thirteenth factor, the Court finds that the parties did not testify on the record regarding their employment responsibilities. Regardless, the Court does not find this factor to apply to the determination of the minor child's vaccination status and therefore shall not consider in its analysis.

Finally, on the fourteenth factor, the Court finds that the minor child is eight years old and is the only child of the parties.

In addition to the factors above, the Court also considers the risks and rewards of the minor child receiving the COVID-19 vaccine against the risks and rewards of remaining unvaccinated. The Court finds that both parties offered medical experts to elucidate these risks and benefits, but the Court finds Dr. Shapiro's testimony to be very credible on this issue, as he was qualified as not only an expert in general pediatrics, but also infectious diseases. Based on his testimony, the Court finds that the benefits of COVID-19 vaccination include protection against an individual's transmission of the SARS-CoV-2 virus, prevention of further spread of the virus, increase in the body's natural immunity against COVID-19 variants, and prevention of serious infection, hospitalization, or death regardless of COVID-19 variants. The Court finds that the risks of COVID-19 vaccination are mild side effects, such as fever, arm soreness, and lethargy, waning resistance to successive variants, and more serious adverse reactions to the vaccine, including myocarditis and Kawasaki's disease. Regarding myocarditis specifically, the Court finds that, while children aged five through eleven years are at risk of this as an adverse reaction to COVID-19 vaccination, the risk is low. If the minor child were to remain unvaccinated, the Court finds that the benefits include avoidance of potential adverse reactions to COVID-19 vaccines and the development of natural immunity against the SARS-CoV-2 virus, if the minor child contracts the virus and survives its effects. The Court finds that the risks of remaining unvaccinated include contracting the COVID-19 disease, which can result in a slew of wide-ranging symptoms, including an asymptomatic reaction, cough, headache, loss of taste and smell, runny nose, diarrhea, pneumonia, seizures, cardiac abnormalities, and death, and further complications of MIS-C following infection, which can result in septic shock, high fever, chest pains, seizures, low blood pressure, coma, and death, where five to ten percent of children in the minor child's age group die from MIS-C. Further, the Court finds that contracting COVID-19 also poses the risk of transmitting the SARS-CoV-2 virus to other people.

Together, this risk-benefit analysis informs the Court's decision, but the Court notes that it is not tasked in the present matter to determine whether, in general, the benefits of the COVID-19 vaccine outweigh its risks, or vice versa. Rather, the Court is tasked to determine whether the benefits of vaccination outweigh the risks, or vice versa, specifically for the minor child.

Therefore, based on the above mentioned factors, the Court finds that it is in the best interests of the minor child to permit the Plaintiff to make the decision on vaccinating the minor child against COVID-19. The Court found that the only relevant factors to its analysis were the first, second, seventh, ninth, and tenth factors. Under the first and second factors, the Court found that the parties are generally able to agree and cooperate on decisions related to the minor child, excluding the present matter, and will likely accept the Court's decision regarding medical custody. Therefore, these factors do not skew towards either of the parties' positions regarding COVID-19 vaccination. Under the remaining dispositive factors – the seventh, ninth, and tenth factors – the Court finds these factors to skew towards the Plaintiff. Specifically, under the seventh factor, the Court found that the minor child does not have any special medical needs that would affect her vaccination status and that she previously received routine vaccinations without presenting any serious adverse reactions. Under the ninth factor, the Court found that the continuity and quality of the minor child's education would be disrupted by virtual learning, which would be more likely to occur if the minor child is unvaccinated. Under the tenth factor, the Court found that, while both parents have demonstrated their parental fitness, the Court would more heavily consider the Plaintiff's accounts of the minor child's daily life and the effects that COVID-19 policies have on her daily life due to the Plaintiff's status as the Parent of Primary Residence. Thus, the Court finds that for the minor child, who previously received other vaccinations, presented no serious adverse reactions to prior vaccines, and has no underlying medical conditions, the risk of serious adverse reactions from the vaccine is outweighed by the risk of serious infection caused by COVID-19. Therefore, the Court finds that, under the N.J.S.A. 9:2-4 factors, it is in the best interest of this specific minor child to permit vaccination against COVID-19.

Moreover, the Court notes that the adversarial nature of the plenary hearing factored into its conclusion on the risks and benefits of COVID-19 vaccination. The Court finds that the Plaintiff overwhelmingly established the qualifications of Dr. Shapiro, in both general pediatrics and infectious diseases, and properly cited his expert opinion in describing the protection offered by the COVID-19 vaccine against its observed and theoretical risks. While the Defendant brought Dr. Farella as a counter-expert, the Court notes that her expertise was limited to general pediatrics

alone, and not on infectious diseases. Moreover, Dr. Farella heavily relied on VAERS reporting as indication of severe adverse reactions arising from the vaccine, but subsequently conceded that VAERS is a passive reporting system with no method of verifying the veracity of its reports. Regardless of the veracity of the reports, Dr. Farella did not establish any patterns of abnormal signals found from children, within the age group of five to eleven years, who received the COVID-19 vaccine. Additionally, Dr. Farella categorically declined to administer the vaccines to her own patients aged five to eleven years simply due to its limited time on the market and had no direct knowledge of the minor child, as related to her recommendation for the minor child to receive the COVID-19 vaccine. Accordingly, the Court did not find that Dr. Farella sufficiently established the risks of the COVID-19 vaccine for the minor child. At that point, the Court only has Dr. Shapiro's expert opinion to rely on, where he testified that the benefits of receiving the vaccine far outweigh its risks, even when specifically considered for the minor child. Therefore, the Court **GRANTS** the Plaintiff's motion to receive limited medical custody of the minor for the purpose of making the decision on vaccinating the minor child against COVID-19.

Conclusion

The Court **GRANTS** the Plaintiff's motion.