

**DOCKETING  
STATEMENT  
EXHIBIT “I”**

1 SUPP  
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10 **DISTRICT COURT, FAMILY DIVISION**  
11 **CLARK COUNTY, NEVADA**

12 CHRISTINA CALDERON STIPP,

13 Plaintiff,

14 v.

15 MITCHELL DAVID STIPP,

16 Defendant.

CASE NO. D- 08-389203-Z

DEPT. NO. O

HEARING DATE: May 6, 2010

HEARING TIME: 2:00 p.m.

17 **SUPPLEMENT TO COUNTERMOTION TO SET ASIDE AUGUST 7, 2009**  
18 **STIPULATION AND ORDER DUE TO DEFENDANT'S FRAUD UPON THE COURT,**  
19 **GRANT DISCOVERY, PARTITION UNDISCLOSED MARITAL ASSETS, AND FOR**  
20 **SANCTIONS**  
21 **AND**  
22 **OPPOSITION TO DEFENDANT'S MOTION TO CONFIRM PARTIES AS**  
23 **JOINT CUSTODIANS AND TO MODIFY TIMESHARE ARRANGEMENT**

24 Plaintiff CHRISTINA CALDERON STIPP, by and through her attorney, DONN W.  
25 PROKOPIUS, ESQ., submits the following points and authorities in support of CHRISTINA'S  
26 supplement referenced above.

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28 ///

1 This motion is made and based upon EDCR 2.20(f) and all the papers and pleadings on  
2 file herein, the affidavit included herewith, and any oral argument made or evidence introduced  
3 at the time of the hearing on May 6, 2010.

4 DATED this 5th day May 2010.

5 DONN W. PROKOPIUS, CHTD.

6  
7  
8 BY: /s/ Donn W. Prokopius  
~~DONN W. PROKOPIUS, ESQ.~~  
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11 Attorney for Plaintiff

## 12 I. INTRODUCTION

13 All of the claims upon which MITCH premised his request for custody and timeshare  
14 modification in this case have been proven false. As confirmed by Dr. John Paglini, the court-  
15 appointed custody evaluator in this case, CHRISTINA did not abuse and is not abusing the  
16 parties' daughter, Mia. In addition, contrary to his claims otherwise, Dr. Paglini confirmed that  
17 MITCH knew about Mia's ongoing anger and dressing issues long before he entered into the  
18 recent settlement, which MITCH now challenges. Most importantly, Dr. Paglini has significant  
19 concerns against increasing MITCH'S timeshare given the "deception" and "deceit" MITCH  
20 engaged in post-settlement in obtaining psychological treatment for and an evaluation of Mia  
21 without CHRISTINA'S knowledge or consent and without informing Mia's treating  
22 psychologists. Dr. Paglini advised that such concerns specifically counsel against any future  
23 request by MITCH to relocate with the children, a concern CHRISTINA voiced to the Court in  
24 her Countermotion/Opposition.

25 Tellingly, Dr. Paglini's evaluation fell short of recommending a timeshare modification.  
26 Instead, he left it for the Court to determine stating that "[t]his evaluator understands that Mr.  
27 Mitchell Stipp and Mrs. Christina Stipp completed mediation in the summer of 2009, and  
28 devised the current parenting plan. This Court is also aware of Rivero versus Rivero, Supreme  
Court decision. It is a judicial decision whether or not Mr. Stipp should be awarded additional

time." Even Dr. Paglini, it appears, questions MITCH'S motivation to engage in the present litigation so soon after settlement, i.e., *Rivero's* change of the law and not "abuse" as MITCH claimed. Given Dr. Paglini's findings and the resulting absolute lack of adequate cause to warrant an evidentiary hearing let alone modification of custody and/or the current timeshare, the Court should deny MITCH'S motion and preserve custodial stability in the lives of the parties' children by leaving the present timeshare intact. The complete cost of the evaluation and Christina's attorney's fees incurred defending herself against MITCH'S unsubstantiated claims of abuse should be borne by MITCH.

## II. BACKGROUND

As a matter of judicial economy, CHRISTINA incorporates by reference the detailed factual backgrounds she has previously submitted to the Court. The Court should note, however, the following timeline of significant events:

1. **May 2, 2008.** The parties' Decree of Divorce is entered.
2. **December 5 & 17, 2008.** MITCH confirms via email his awareness of Mia's anger and dressing issues. *See* Emails attached as Exhibits 18 & 20, respectively, to Countermotion/Opposition.
3. **December 17, 2008.** Post-divorce litigation regarding issues of educational cost-sharing and custody/visitation follow the entry of the Decree.
4. **February 24, 2009.** Hearing. The Court denies all motions holding that "confirmation" of CHRISTINA as primary physical custodian was not a ripe issue, it will not enforce private school agreements, and the parties just entered into the timeshare less than 11 months ago.
5. **April 27, 2009.** MITCH files a Motion for Reconsideration citing his reduced work schedule of 15 hours per week.
6. **June 4, 2009.** Hearing. MITCH requests the Court enforce the May 1, 2009 email "settlement," which contains the present timeshare, or, alternatively, order a custody evaluation based upon CHRISTINA'S alleged "alienation" of the children, citing, verbatim, the same statements he presently claims constitute "abuse." The Court denies the request for assessment and orders the parties to mediation. An October 2009 evidentiary hearing is set.
7. **July 7, 2009.** On the eve of the parties' mediation, MITCH emails CHRISTINA'S counsel and, among other things, admits that "To be honest, I am capable of attending classes and seeking family counseling on my own to assist with **the issues raised by Christina's**

1 **alienation of the children."** See Email, attached as Exhibit 16 to Countermot./Opp.(emphasis  
2 added).

3 9. **July 8, 2009.** Mediation. The parties execute a Stipulation and Order (SAO)  
4 containing the present timeshare (identical to the email "settlement") and two co-parenting  
5 concessions fought for by CHRISTINA (daily phone calls, which MITCH immediately reneged  
6 on, and COPE class attendance by October 1, 2009, which MITCH only went to the day after  
7 service of CHRISTINA'S Countermot./Opp. on November 30, 2009).

8 10. **August 7, 2009.** The Court enters the SAO.

9 11. **August 27, 2009.** *Rivero v. Rivero*, 125 Nev. Adv. Rep. 34, 216 P.3d 213 (2009),  
10 is decided.

11 12. **September 11, 2009.** MITCH begins secret treatment of Mia with Dr. Kalodner  
12 even though CHRISTINA previously meets with (Sept. 2) and rejects Dr. Kalodner (Sept. 10) for  
13 treatment of Mia.

14 13. **September 25, 2009.** MITCH meets with Dr. Mishalow and consents to his  
15 treatment of Mia, after CHRISTINA does the same on September 16, 2009.

16 14. **September 29, 2009.** MITCH receives diagnosis of "sensory processing  
17 disorder," from Dr. Kalodner, who rules out OCD, and refers MITCH to Dr. Tania Stegen-  
18 Hanson at Achievement Therapy Center for occupational therapy with Mia. He purposefully  
19 neglects to act on or tell CHRISTINA of this diagnosis and referral until December 13, 2009,  
20 after the hearing on his motion. From September 29, 2009, to January 6, 2010, Mia goes without  
21 occupational therapy due to MITCH'S deception and deceit.

22 15. **October 8, 2009.** MITCH completes forms for Dr. Stegen-Hanson in which he  
23 lists Amy as Mia's mother and purposefully omits any reference to CHRISTINA. See Ex. 6.

24 16. **October 9 & 23, 2009.** MITCH cancels two separate appointments with Dr.  
25 Stegen-Hanson to assess Mia for her "sensory processing disorder.

26 17. **October 29, 2009.** MITCH reinitiates litigation filing motion seeking  
27 "confirmation" of his custodial status and modification of the current timeshare based on his  
28 "retirement for life" and false claims of alienation and abuse by CHRISTINA.

18 18. **November 17, 2009.** Unbeknownst to CHRISTINA, Dr. Mishalow, or the Court,  
19 Dr. Stegen-Hanson evaluates Mia and recommends weekly occupational therapy for three  
20 months.

21 19. **December 7, 2009.** MITCH finally informs CHRISTINA and the Court of his  
22 deception with regard to Dr. Kalodner and involvement of Dr. Stegen-Hanson (but not  
23 assessment report) in his Reply filed the night before the hearing on his motion.  
24

1       20.    **December 8, 2009.** Hearing. The Court orders custody evaluation by Dr. John  
2   Paglini.

3       21.    **April 29, 2010.** Report. Dr. Paglini concludes that there is no emotional abuse or  
4   alienation of the children by CHRISTINA. He expresses deep reservations regarding increasing  
5   MITCH'S timeshare in light of his deceit and deception.

### 6                                   **III.    ARGUMENT**

#### 7                   **A.    THE COURT'S PARAMOUNT CONCERN IS MIA**

8       At the hearing on December 8, 2009, and at subsequent hearings thereafter, including,

9   most recently on April 13, 2010, the Court expressed that its paramount concern was "what is  
10   happening to Mia." It stated that due to MITCH'S claims of "abuse" and to CHRISTINA'S  
11   concerns regarding MITCH'S punishment of the children and concealed DUI/reckless driving, it  
12   had to order the custody evaluation even though it was reluctant to "get into it." However, the  
13   Court has clearly articulated its standard to be the following: unless it is found that Mia is being  
14   "abused" as defined by NRS 432B.020, it will not reopen the settlement into which the parties  
15   only recently entered by ordering an evidentiary hearing. As stated by the Court, the parties  
16   "know what [they] signed when [they] signed it," and they should be held to their agreement in  
17   the absence of abuse.  
18

#### 19                   **1.    The Statutory Definition of Abuse in Nevada**

20       NRS 432B.020 defines "abuse and neglect" of a child, in pertinent part, as follows:

21       "1. 'Abuse or neglect of a child' means, except as otherwise provided in subsection 2:

22       (a) Physical or mental injury of a nonaccidental nature;

23       (b) Sexual abuse or sexual exploitation; or

24       (c) Negligent treatment or maltreatment as set forth in NRS 432B.140, of a child caused or  
25       allowed by a person responsible for the welfare of the child under circumstances which  
26       indicate that the child's health or welfare is harmed or threatened with harm.  
27  
28

1 Dr. Paglini confirms that CHRISTINA did not then and is not now abusing Mia or Ethan.  
2 See Dr. Paglini's Custody Evaluation. In his "Issues of Concern" section with respect to  
3 CHRISTINA, Dr. Paglini only highlighted two areas of concern, 1) CHRISTINA'S interactions  
4 with Dr. Kalodner, *see* Eval. at 51, which he cautioned should be viewed in the context of the  
5 fact that CHRISTINA had absolutely no knowledge that MITCH had arranged for treatment of  
6 Mia with Dr. Kalodner and obtained an evaluation without her knowledge or consent, and 2) that  
7 ~~"[a]lso, there were occasions where Mrs. Christina Stipp was involved in arguments with her ex-~~  
8 husband, and exposed her daughter to negative information, *likely unintentionally*." Eval. at p.  
9 51 (referring to the October 24, 2008 incident where MITCH calls CHRISTINA a "terrorist" and  
10 the May 31, 2009 incident involving Mia's earrings, both of which pre-dated the settlement).

11  
12  
13 **2. There is no "adequate cause" to warrant an evidentiary hearing.**

14 Now that the Court is aware of the fact that Mia is not being abused, her behavioral issues  
15 pre-dated and were known to MITCH prior to the settlement, and further, that MITCH has  
16 serious co-parenting deficiencies counseling against an increase in timeshare, *see* Dr. Paglini's  
17 Evaluation, the Court should not order an evidentiary hearing in order to change the parties'  
18 recently-decided timeshare.  
19

20 An evidentiary hearing is not warranted given the lack of "adequate cause" present here.  
21 See *Rooney v. Rooney*, 853 P.2d 123, 124, 109 Nev. 540 (1993) (holding that "a district court has  
22 the discretion to deny a motion to modify custody without holding a hearing unless the moving  
23 party demonstrates 'adequate cause'"); and Discussion in Countermot./Opp., at Section IV.B.  
24 "MITCH'S MOTION TO MODIFY CUSTODY SHOULD BE DENIED BECAUSE THERE IS  
25 NO "ADEQUATE CAUSE" TO WARRANT ITS CONSIDERATION".  
26  
27

28 **3. CHRISTINA did not Misrepresent her Financial Status to Dr. Kalodner**

1 Inexplicably, MITCH contends that CHRISTINA deliberately misrepresented her  
2 financial position to Dr. Kalodner in order to secure a discount for services. *See* MITCH'S  
3 Supplement, at 6. It is this ill-conceived notion that MITCH likely implanted in Dr. Kalodner's  
4 mind that thereafter influenced Dr. Kalodner's questionable actions in deciding to go along with  
5 MITCH and treat Mia without CHRISTINA'S knowledge or consent. *See* Letter from Dr.  
6 Kalodner to MITCH, dated December 4, 2009, attached as Exhibit C to MITCH'S Reply (Dr.

7 ~~Kalodner admits that she did not have CHRISTINA'S consent to treat Mia).~~ However,

8  
9 CHRISTINA hereby submits two emails she sent contemporaneously to MITCH documenting  
10 her initial telephone conversations with Dr. Kalodner on September 2, 2009, which disprove  
11 MITCH'S false accusation. *See* Emails, attached hereto as Exhibits 1 & 2, respectively.

12  
13 Specifically, on September 2, 2009, two days prior to meeting with her in person,  
14 CHRISTINA called Dr. Kalodner and documented the following to MITCH, "Dr. Kalodner is  
15 also taking new patients, but is not a provider for Sierra. Kaldoner said that through Sierra, she  
16 thinks we would have to satisfy a \$500 deductible and pay \$135 per session, but that if we did  
17 cash pay, she would work with us." *See* Ex. 1. CHRISTINA further advised MITCH that she  
18 would "call Kalodner and ask what the cash pay price is." *Id.* Later that same day, CHRISTINA  
19 documented in an email to MITCH the following:  
20

21 "I talked to Kalodner. She says her initial visit is \$250, but \$200 cash pay. Office  
22 visits are \$200, cash pay \$150 or less depending on financial need. She says that  
23 she wouldn't recommend going through Sierra either or any insurance at that (she  
24 says she has a 15 yr old who she does not use her insurance for counseling),  
25 because then the child has a record. She qualifies this by saying that she would  
26 use insurance if the psychiatric diagnosis is something like bipolar where long  
27 term treatment is required."

28 *See* Ex. 2. MITCH responded by saying that "I agree that cash payments are the best option."  
*Id.* (emphasis added). Even MITCH, it appears, did not interpret Dr. Kalodner's cash discount to



1 be "need-based." Discounts for cash payment are not unusual in the medical world or even with  
2 respect to the other medical professionals involved in this case, i.e., Dr. Mishalow charged \$175  
3 per session cash pay versus \$195 if the parties used insurance and Dr. Stegen-Hanson offers a  
4 \$30 discount per session for "early payment." Neither of these other doctors' discounts were  
5 "need-based."  
6

7 Clearly, CHRISTINA was not trying to deceive Dr. Kalodner when she accepted her cash  
8 ~~pay discount because she did not know that Dr. Kalodner conditioned the cash pay on financial~~  
9 need. In reality, however, CHRISTINA believes that Dr. Kalodner's discount only became  
10 "need-based" after she met with MITCH and learned from MITCH just how much he "paid"  
11 CHRISTINA upon their divorce (an amount CHRISTINA disputes was an "equitable  
12 apportionment" of the marital estate contrary to MITCH'S representations otherwise). This  
13 suspicion is confirmed by Dr. Kalodner's statements concerning her "perceptions" of  
14 CHRISTINA'S financial status to Dr. Paglini. Eval. at 32.  
15  
16

17 Contrary to her statements otherwise, Dr. Kalodner never asked CHRISTINA to provide  
18 documentation to support the "discount." Understandably, therefore, CHRISTINA could not  
19 understand what she perceived to be Dr. Kalodner's arbitrary price increase after meeting with  
20 MITCH. The Court should also note that CHRISTINA was not looking to "rip Dr. Kalodner off"  
21 nor did she ever tell Dr. Kalodner, or MITCH, that she could not afford Dr. Kalodner's increased  
22 price. In fact, she had the option of paying \$135 per session had she used Mia's insurance with  
23 Dr. Kalodner, which she did not do upon the doctor's own advice. In sum, Dr. Kalodner appears  
24 to have sought to provide treatment for Mia to the highest bidder, something that CHRISTINA  
25 recognized by her arbitrary and unexplained price increase after meeting with MITCH, not to  
26 mention hostile telephone call to CHRISTINA about it (Dr. Kalodner told CHRISTINA to "go  
27  
28

1 find herself another therapist"), and which, along with Dr. Kalodner's aversion to occasional joint  
2 meetings with both parents, influenced CHRISTINA'S decision not to proceed with treatment of  
3 Mia with her.

4 The decision was NOT motivated by CHRISTINA'S insistence that she  
5 "do things her way" as MITCH and Dr. Kalodner claim. In fact, the Court should note that  
6 though MITCH claims that CHRISTINA insisted on being in the same treatment room as Mia  
7 for all sessions and that Amy must be excluded from treatment, no such "conditions" were  
8 imposed by CHRISTINA according to Dr. Mishalow in terms of his treatment of Mia, which  
9 began prior to MITCH'S commencement of post-settlement litigation. Dr. Mishalow met with  
10 Mia many times outside the presence of CHRISTINA; he, like CHRISITNA welcomed  
11 MITCH'S joint participation, but did not insist on it; and MITCH was "actively involved" in Dr.  
12 Mishalow's therapy with Mia. See Eval. at 41-42. Dr. Mishalow never reported that  
13 CHRISTINA asked to exclude Amy from treatment either, because that was never her intention.  
14  
15  
16  
17 *Id.*

18 **4. Mia is bonded with CHRISTINA and MITCH and is oblivious to parental**  
19 **conflict; No Custodial Modification, therefore, is Warranted**

20 On all accounts, according to Dr. Paglini's Evaluation, Mia appears to be bonded with her  
21 parents and step-mother and oblivious to their post-divorce strife. According to Dr. Paglini, Mia  
22 reports that:

- 23 1. "Mia was interviewed. Mia spoke fondly of her father, step-mother and mother. Mia  
24 appeared bonded with both parents/step-mother." Eval. at 51.
- 25 2. "[CHRISTINA'S] home presentation indicates that the children are a top priority of Mrs.  
26 Christina Stipp's life." Eval. at 21.
- 27 3. "Mrs. Christina Stipp had a very interactive style with her children. She was very  
28 encouraging and helpful. The children responded exceptionally well to their mother." Eval. at  
20.
4. "The children appeared very comfortable in their home environment...The children have  
a wonderful environment." Eval. at 20 (referring to CHRISTINA'S home).

1 5. "Mia appeared comfortable, and talked freely. She described her drawings in a light-  
2 hearted fashion. She was extremely expressive as well as happy." Eval. at 15 (discussing child  
3 interviews).

4 6. "When queried about the positives of her mother, Mia discussed how she does not know  
5 how to feed herself, but she is a big girl. She plays with her mother, helps her bake cakes and  
6 muffins. She enjoys cooking chocolate cake, which is her favorite. Mia was very expressive as  
7 she discussed how they cook eggs, chicken, fried rice, and other items." Eval. at 15.

8 7. "When queried on how she likes her mother's house, she reported, 'Terrific. I like my  
9 mom, and she plays with me.'" *Id.*

10 8. "When asked what her mom says about her father, she reported, 'I like him and love that  
11 he talks to us.'" Eval. at 16.

12 9. "Mia denied that either parents speak badly of each other, and perceives her parents as  
13 getting along." *Id.*

14 10. Mia "appeared as a happy girl." *Id.*

15 11. "In the waiting room, Mia was excited to see her mother. Mia and her mother were very  
16 interactive. Mia left my office in a good mood." *Id.*

17 12. "Mia [] enjoys her mother's home, as well as her mother." *Id.*

18  
19 Clearly, Mia is a happy child who reports positive things about her mother, her mother's  
20 home, and was observed by Dr. Paglini and many collaterals to have positive interactions with  
21 her mother. She is bonded with her mother. Likewise, Mia expressed positive feelings for her  
22 father and stepmother. In addition to the lack of abuse, Mia's present state counsels in favor of  
23 continuing the stability of her current timeshare and not ordering the parties to undergo what will  
24 undoubtedly be a contentious trial given past indications of litigation conduct and MITCH'S  
25 overbroad and invasive written discovery requests, responses from CHRISTINA to which were  
26 stayed by the Court. The Court should not heed MITCH'S threats that he will continue litigation  
27 in the event he is denied an evidentiary hearing, *see* MITCH'S Supplement, filed May 3, 2010.  
28 As the Court has repeatedly stated, the parties need to "move on," and custodial litigation will  
most certainly prevent that from happening.

25 **5. MITCH had an opportunity to conduct the discovery he now claims he needs**

26 MITCH claims in his "Supplement," filed May 3, 2010, that he needs an evidentiary  
27 hearing because he needs to depose both Drs. Kalodner and Mishalow in order to prove  
28

1 nonexistent abuse. He had an opportunity to do so prior to the return hearing. In fact, MITCH  
2 actually noticed and deposed Dr. Mishalow already. MITCH also had ample opportunity to  
3 depose Dr. Kalodner, but did not. Notwithstanding the fact that he got the evaluation he  
4 requested, MITCH simply does not like the conclusions reached by Dr. Paglini and wants to  
5 have an evidentiary hearing in order to conduct his own custody evaluation. The Court should  
6 not provide MITCH an opportunity to harass CHRISTINA any further or continue to waste the  
7 Court's limited resources.

9 **B. DR. PAGLINI'S REPORT NEGATES EVERY CLAIM MITCH MADE**

10 On April 29, 2010, after four months of extensive and comprehensive evaluation of the  
11 parties, their children, their physicians/counselors, collateral witnesses, pleadings and discovery,  
12 Dr. Paglini produced a child custody evaluation ("Evaluation"), which MITCH asked for, to the  
13 Court. Dr. Paglini specifically found the following, contrary to MITCH'S false allegations  
14 otherwise:  
15

16 **1. There is no abuse by CHRISTINA.**

17 Dr. Paglini reported that "Mia, in a therapeutic setting with Dr. Kalodner, spontaneously  
18 states negative information allegedly received from her mother, about her father and Amy.  
19 However, she does not make the same statements to Dr. Mishalow." *See* Evaluation, at p. 61.  
20 This occurred even though MITCH and Amy took Mia to Dr. Mishalow on numerous occasions  
21 alone, and she was separately brought by CHRISTINA and seen alone by Dr. Mishalow. Dr.  
22 Mishalow "reported that Mia was bonded with her mother, and Mia never said anything negative  
23 about Amy or her father" *Id.* at 61. Dr. Mishalow's treatment of Mia included sessions prior to  
24 MITCH'S filing of the present motion. "Dr. Mishalow was very clear that Mrs. Stipp wanted Mr.  
25 Stipp involved since day one." *Id.* at 42. Dr. Mishalow confirmed that CHRISTINA was "very  
26  
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1 in favor of Mr. Stipp's involvement in treatment." *Id.* at 41. Likewise, Mia never said anything  
2 negative about either parent, or Amy, to Dr. Paglini even though she was interviewed by him on  
3 more than one occasion, at both her homes as well as at his office, with MITCH and  
4 CHRISTINA alternating bringing Mia.  
5

6 Dr. Paglini reports that Mia is "either overhearing comments in her environment, and  
7 interpreting impressions from her parents, or directly from her mother. Regardless, this  
8 ~~evaluator does not believe this is emotional abuse.~~ There is no significant trauma. These  
9 inappropriate comments sometimes are made to children. In this case, it has no lasting effect on  
10 Mia, as indicated by the fact that she has bonded with everyone." *See* Evaluation, at p. 63  
11 (emphasis in original). If comments were made, Dr. Paglini reported, "this does not reach the  
12 level of emotional abuse or alienation." *Id.* MITCH knew at the time he filed his motion that  
13 there was no "abuse." His motion was motivated by *Rivero*, not abuse. If he had been concerned  
14 with helping Mia, he would have gotten her the occupational therapy Dr. Kalodner  
15 recommended to him almost immediately on September 29, 2009, and not waited until after his  
16 December 8, 2009 hearing to tell CHRISTINA to get it for Mia.  
17  
18

19 **2. Dr. Kalodner Confirms there is no abuse of Mia by CHRISTINA**

20 Of particular importance, the Court should note that not only did Dr. Paglini not find  
21 abuse, but Dr. Kalodner confirmed to Dr. Paglini that she did not find that CHRISTINA had  
22 abused Mia either. *See* Eval. at 33. Contrary to MITCH'S recent arguments to the Court that Dr.  
23 Paglini lacked sufficient time with Mia to make this determination, *see* MITCH'S Supplement,  
24 MITCH cannot and does not refute that his own hired gun, whom he secretly hired to treat Mia  
25 over 5 months during 19 separate sessions (not 5 sessions as he consistently misstates), failed to  
26 make the determination of abuse as well.  
27  
28

1 Not surprisingly, in light of the above, MITCH is grasping at straws and now seeks to  
2 change his argument from one of abuse to one in which custodial modification should be based  
3 upon possible future misconduct by CHRISTINA. MITCH should take caution in making such  
4 arguments given his "episodic periods of alcohol abuse," influenced, as Dr. Paglini noted, by  
5 peers many of whom he still interacts with according to Dr. Paglini's evaluation, and his  
6 impulsivity as it relates not only to drinking but to reckless driving, i.e., his self-reported  
7 speeding issues and being pulled over for DUI twice (his counselor confirmed that MITCH  
8 admitted being pulled over for one other DUI prior to his May 13, 2008 DUI, see Eval. at 49).  
9 Surely, the likelihood of future misconduct favors MITCH given his myriad of issues of concern:  
10 alcohol abuse, reckless driving/speeding, narcissism, deception and deceit, unwillingness to co-  
11 parent.

12  
13  
14 **3. MITCH knew all along that Mia's anger and dressing issues were not new.**

15 Mitch falsely claimed that Mia's dressing and anger issues were new, arising only after  
16 entry of the SAO. Dr. Paglini reported that "[t]his evaluator reviewed an email between Mitchell  
17 and Christina regarding Mitchell's hitting Mia because of inappropriate behavior approximately  
18 one and a half years ago. Mitchell explained to Christina why he hit Mia, and how he was  
19 appropriate and this was no abuse. What this email indicates, is that Mitchell was dealing with  
20 his daughter's defiance, well before any dynamics emerged in this case (summer 2009)."  
21 Evaluation, at p. 62 (emphasis added). Here, Dr. Paglini is referencing MITCH'S email, dated  
22 December 17, 2008, attached as Exhibit 20 to CHRISTINA'S Countermot./Opp. Similarly,  
23 MITCH'S email to CHRISTINA, attached as Exhibit 18 to CHRISTINA'S Countermot./Opp.,  
24 indicates that MITCH was aware of Mia's issues with clothing, i.e., what was later diagnosed to  
25 be a sensory processing disorder, as early as December 5, 2008 (CHRISTINA submits that the  
26  
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1 dressing issues pre-dated the divorce), and refused to allow CHRISTINA to seek appropriate  
2 care for her at the time. See Ex. 18 to Countermot./Opp. Unlike MITCH'S problematic  
3 deception, however, CHRISTINA did not seek secret treatment of Mia at the time. Similarly,  
4 MITCH made and argued claims of "alienation" relating to statements he alleged CHRISTINA  
5 made to Mia prior to and at the June 4, 2009 hearing on his Motion for Reconsideration.  
6

7 MITCH'S present motion, therefore, was premised on his knowingly false allegation of  
8 ~~abuse. As now proven by a thorough evaluation by Dr. Paglini, an evaluation that MITCH asked~~  
9 for both in June 2009 and in October 2009 following his own settlement of the matter, MITCH  
10 manufactured and/or exaggerated his claims of abuse in order to justify re-opening a case he  
11 recently settled in the wake of what he perceived to be an effect on his custodial status by virtue  
12 of a change in the law, i.e., *Rivero*. MITCH should not only be entirely responsible for the cost  
13 of the needless evaluation and intrusion into CHRISTINA and the children's lives, but he should  
14 also compensate CHRISTINA for the attorney's fees she incurred by virtue of having to defend  
15 herself against MITCH'S false allegations and his deception and deceit in refusing to co-parent  
16 with her regarding treatment for Mia.  
17  
18

19 **4. MITCH'S deception was WRONG, is problematic and counsels**  
20 **against an increase in timeshare in his favor.**

21 Dr. Paglini noted that among the myriad issues of concern he had regarding MITCH,  
22 including, his previous episodic alcohol abuse, history of speeding/reckless driving, and his  
23 narcissism, that he also "did not co-parent effectively with Mrs. Christina Stipp by not informing  
24 her of the psychological treatment of Mia with Dr. Melissa Kalodner and evaluation of Mia with  
25 the Achievement Therapy Center. This indicates deception." Evaluation, at p. 49 (emphasis  
26 added). Dr. Paglini concluded, emphatically, that "Mr. Mitchell Stipp was completely wrong for  
27 obtaining treatment for his daughter without his ex-wife's knowledge. He engaged in deception  
28

1 and also he obtained an evaluation of his daughter without his ex-wife's consent." Eval. at. 59  
2 (emphasis added). The Court should note that Dr. Paglini set out an extensive review of the facts  
3 pertaining to MITCH'S deception. See Eval., at 54-55, 58-59. Furthermore, Dr. Paglini  
4 highlighted MITCH'S actions in "purposefully" putting Amy's information under that of  
5 "Mother" on the therapist's forms, and not including any information about CHRISTINA to  
6 prevent her from being contacted about the evaluation. See Eval. at p. 54; and Ex. 6 (form),  
7 attached.  
8

9 Dr. Paglini concluded that "This evaluator's opinion is [sic] the fact that Mr. Stipp did not  
10 notify his ex-wife of psychological treatment with Dr. Kalodner and psychological assessment at  
11 the Achievement Therapy Center, is a significant error and a cause of concern." *Id.* at 58  
12 (emphasis added). "The only reservation of increased time, is Mr. Stipp's deceit pertaining to  
13 Mia being involved in therapy with Dr. Kalodner, and the subsequent evaluation of his  
14 daughter." *Id.* (emphasis added). Dr. Paglini even cautioned the Court against allowing any  
15 future relocation by Mitch, which concern CHRISTINA explicitly raised in her  
16 Countermot./Opp., at p. 2-3, as well as to Dr. Paglini, by saying that "[p]oor co-parenting on Mr.  
17 Mitchell Stipp's part pertaining to Mia's therapy and evaluation. Mr. Mitchell Stipp deceived his  
18 ex-wife regarding treatment of his daughter, and also deceived both therapists. He also obtained  
19 an evaluation of Mia without his wife's consent. Hence, this could potentially indicate that if he  
20 had the children in a different state, he may not co-parent effectively." *Id.* at 66. Dr. Paglini's  
21 concerns about MITCH'S deceit and deception indicate that he did not buy MITCH'S excuses  
22 that he feared CHRISTINA would stop treatment (MITCH himself delayed occupational therapy  
23 for Mia over 4 months) and overreact to his covert treatment of Mia.  
24  
25  
26  
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///



1           **5. MITCH'S claims of therapeutic exclusion and manipulation are false.**

2           Dr. Paglini's evaluation proves that MITCH'S claims of therapeutic exclusion by  
3 CHRISTINA are false. Dr. Paglini reported that Dr. Mishalow thought MITCH'S deception was  
4 "strange" because MITCH was "very involved" in treatment of Mia with him. Eval. at. 55.  
5 Moreover, MITCH'S engagement of Dr. Kalodner pre-dated Dr. Mishalow by a month; he did  
6 not run to Dr. Kalodner *after* being supposedly excluded by CHRISTINA with Dr. Mishalow as  
7 ~~he falsely claimed to the Court. In other words, the need for an assessment as described by~~  
8  
9 MITCH in his initial motion, to wit, therapeutic exclusion and manipulation, was as false as his  
10 claims of "abuse" by CHRISTINA. Most revealing, however, is MITCH'S continuing refusal to  
11 accept responsibility for this bad behavior.  
12

13           **6. MITCH downplays and refuses to take responsibility for his deceit and**  
14 **deception.**

15           In his recently filed "Supplement," MITCH continues to assert that he was justified in his  
16 deception and deceit because the Court stated, after-the-fact and at the end of a long hearing on  
17 December 8, 2009, that the parties could "get their own therapist if they could not decide on one  
18 together." Despite the fact that the Court has since reconsidered that part of its Order from the  
19 December 8, 2009 hearing, MITCH still thinks he did nothing wrong in deceiving CHRISTINA,  
20 the Court (note that he never even admitted to the secret treatment in his initial motion, just in  
21 reply), and both of Mia's psychologists. Worst yet, however, is the fact that he forced Mia into  
22 his conspiracy and threatened her not to tell CHRISTINA about Dr. Kalodner, which she did not.  
23  
24

25           MITCH has a history of "downplaying" misconduct and wrongdoing as described in  
26 detail by his own counselor, Dr. Phil Ricobono. See Eval. at 48-49. Dr. Ricobono, who provided  
27 therapy to MITCH, individually for a lengthy period of time both pre- and post-divorce noted  
28 that MITCH tended to minimize certain issues, was self-centered, and lacked credibility. In fact,

1 with regard to MITCH'S infidelity, which MITCH continues to assert to the Court did not  
2 happen. *see* MITCH'S supplement at FN 1, Dr. Ricobono stated that he did not have a sense of  
3 whether or not MITCH was being honest to him with regard to his denial of an affair with Amy.  
4 With regard to his two DUI'S, Dr. Ricobono disclosed to Dr. Paglini that MITCH reported to  
5 having been stopped twice by police for DUI, MITCH simply told Dr. Paglini that he was  
6 "embarrassed" about his most recent arrest and prosecution for DUI. No mention is made about  
7 ~~the gravity of the offense and potential impact on the safety of others. Perhaps it is MITCH'S~~  
8  
9 lack of credibility that led Dr. Paglini to focus, as MITCH complains about and attributes to  
10 CHRISTINA'S influence, on MITCH'S marital misconduct.

11  
12 The Court should note that Dr. Paglini believes that CHRISTINA has genuinely "moved  
13 on" and experienced "tremendous growth" with respect to processing the divorce. He does not  
14 believe that anything counsels against CHRISTINA maintaining the current timeshare. Instead,  
15 it is with MITCH that Dr. Paglini is concerned about augmenting his timeshare in the wake of his  
16 deceit and deception and continuing resistance to acknowledging any fault.

17  
18 **7. MITCH'S conduct indicates that he favors strife over cooperation with**  
19 **CHRISTINA**

20 The Court should note that MITCH'S aversion to even the appearance of the parties  
21 "getting along," even for the children's sakes, let alone trying to work out joint medical care for  
22 them, is so great that on October 8, 2009, MITCH emailed Mia's pre-school teacher and  
23 instructed her to destroy a photographic image from her digital camera of a picture she had taken  
24 of the parties with their children during open house. *See* Exhibit 5, attached. Dr. Paglini  
25 considered this as well. It is also MITCH who insisted with both Drs. Kalodner and Mishalow  
26 that he could not be in the same room as CHRISTINA. The only reason why he finally relented  
27 and has appeared with CHRISTINA at occupational therapy is because he was under the scrutiny  
28

1 of Dr. Paglini and Dr. Stegen-Hanson's office hours did not permit him to obtain exclusive  
2 treatment of Mia, something he repeatedly requested of CHRISTINA throughout Mia's  
3 occupational therapy. Certainly such actions do not indicate a stable parent, willing to co-parent,  
4 and in whose favor additional time with the children should be awarded. MITCH clearly has not  
5 moved on. Dr. Paglini seems to agree. Eval. at 68.

7 **C. MITCH Withheld Medical Treatment for Mia, which Harmed her**

8 ~~MITCH claims that his deception and deceit in having Mia treated and evaluated without~~  
9 CHRISTINA'S knowledge or consent resulted in no harm and only help to Mia. Although it is  
10 true that MITCH eventually told CHRISTINA about Dr. Stegen-Hanson. Mia's occupational  
11 therapist, and the evaluation he obtained for her on November 17, 2009, he did so only *after* the  
12 December 8, 2009 hearing on his motion and only because, as he admits, Dr. Stegen-Hanson's  
13 office hours for her recommended occupational therapy of Mia did not correspond to his  
14 timeshare. See Email dated December 13, 2009, attached as Exhibit 3. CHRISTINA was not  
15 informed of Dr. Stegen-Hanson's November 17, 2009 evaluation at the time it was made or prior  
16 to it, and was purposefully excluded from the process by MITCH.

19 The Court should note that Dr. Kalodner referred MITCH to Dr. Stegen-Hanson  
20 on September 29, 2009, yet MITCH failed to tell CHRISTINA about this referral or Mia's  
21 evaluation with Dr. Stegen-Hanson (recall he submitted paperwork to Dr. Stegen-Hanson  
22 claiming that Amy was Mia's mother, see Exhibit 6, attached) and her subsequent  
23 recommendation for occupational therapy until December 13, 2009. He deliberately refrained  
24 from giving Mia the occupational therapy she needed because, as he admits to Dr. Paglini in his  
25 evaluation, he was afraid that CHRISTINA would find out about Dr. Kalodner and stop that  
26 "treatment," even though Dr. Kalodner was not trained to treat Mia with occupational therapy  
27  
28

1 and had referred MITCH elsewhere. In fact, however, it is MITCH who delayed treatment of  
2 Mia with the occupational therapist. Dr. Stegen-Hanson's office confirms that MITCH made and  
3 cancelled two appointments for Mia's assessment in October 2009, one on the 9th and the other  
4 on the 23rd. No reasons were noted for the cancellations. Clearly, Mia could have been  
5 receiving much-needed occupational therapy long before January 6, 2010, her first day of  
6 occupational therapy due to CHRISTINA'S immediate actions in obtaining such therapy for Mia  
7 ~~upon notification of the referral from Mitch on December 13, 2009 (Mia's appointment was~~  
8  
9 rescheduled from December 28, 2009 as she was ill), had MITCH chosen to coparent with  
10 CHRISTINA and put Mia's needs above his own.  
11

12 Both parties reported to Dr. Paglini that Mia has made remarkable progress with Dr.  
13 Stegen-Hanson, owner of Achievement Therapy Center. In fact, Dr. Stegen-Hanson's  
14 "treatment" of Mia is similar to that endorsed by CHRISTINA from the beginning, i.e., joint  
15 participation in therapy. See Email from CHRISTINA to MITCH inviting joint participation in  
16 therapy, attached as Exhibit 4. It is unfortunate that MITCH chose not to provide this help to  
17 Mia from September to December 2009, many months during which MITCH subjected Mia to  
18 simultaneous psychological treatment, instructed her not to inform CHRISTINA of the  
19 deception, and forced her to wait to receive much-needed occupational therapy because having a  
20 healthy Mia with resolved issues would not have furthered his request for a custody evaluation at  
21 the hearing on December 8, 2009.  
22

23  
24 There was, therefore, significant harm inflicted upon Mia by virtue of MITCH  
25 withholding Dr. Kalodner's almost immediate diagnosis of sensory processing disorder,  
26 exclusion of OCD as a diagnosis (in his Motion he claimed that Mia likely suffered from OCD,  
27 which, he argued, CHRISTINA was exacerbating), and recommendation for occupational  
28

1 therapy. Again, as Dr. Paglini concluded, such actions counsel against increasing MITCH'S  
2 timeshare. Eval. at 68.

#### 3 IV. ATTORNEY'S FEES

##### 4 NRS 18.010 provides as follows:

5 2. In addition to the cases where an allowance is authorized by specific statute, the  
6 court may make an allowance of attorney's fees to a prevailing party:

7 (a) When he has not recovered more than \$20,000.00; or

8 (b) Without regard to the recovery sought, when the court finds that the claim,  
counterclaim, cross-claim or third party complaint or defense of the opposing party was brought  
~~without reasonable ground or to harass the prevailing party.~~

9 NRS 125.150(3). Except as otherwise provided in NRS 125.141, whether or not  
10 application for suit money has been made under the provisions of NRS 125.040, the court may  
11 award a reasonable attorney's fee to either party to an action for divorce if those fees are in issue  
under the pleadings.

12 The parties' Decree provides for an award of attorney's fees to the prevailing party. In  
13 addition, the Nevada Supreme Court has repeatedly held that attorney's fees may be awarded in a  
14 post divorce action pursuant to NRS18.010 and NRS125.150(3). *Sargeant v. Sargeant*, 88 Nev.  
15 223, 495 P.2d 618 1972); *Leeming v. Leeming*, 87 Nev. 530, 490 P.2d 342 (1971); *Korbel v.*  
16 *Korbel*, 101 Nev. 140, 696 P.2d 993 (1985); *Fletcher v. Fletcher*, 89 Nev 540. 516 P.2d 103  
17 (1973); *Halbrook v. Halbrook*, 114 Nev. 1455, 971 P.2d 1262 (1998); and, *Love v. Love*, 114  
18 Nev. 572, 959 P.2d 523 (1998). CHRISTINA has incurred attorney's fees in defending against  
19 MITCH'S motion. She is therefore requesting that she have an award of attorney's fees in the  
20 sum of \$15,000.00.

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**V. CONCLUSION**

WHEREFORE, CHRISTINA is requesting that the Court deny MITCH'S motion, permit her to submit the present Supplement<sup>1</sup>, and that she have the relief sought in her Opposition/Counter-motion, filed on November 30, 2009.

DATED this 5th day of May, 2010.

DONN W. PROKOPIUS, CHTD.

BY: /s/ Donn W. Prokopius  
DONN W. PROKOPIUS, ESQ.  
931 South Third Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

---

<sup>1</sup> If the Court decides not to consider CHRISTINA'S Supplement, CHRISTINA respectfully requests that it should deny consideration of MITCH'S Supplement as well.

1  
2 **AFFIDAVIT OF CHRISTINA CALDERON STIPP**

3 STATE OF NEVADA )  
4 ) ss.  
5 COUNTY OF CLARK )

6 1. CHRISTINA CALDERON STIPP, being first duly sworn on oath, states as follows:

7 2. That I am the Plaintiff in the above-entitled action. That I read the foregoing

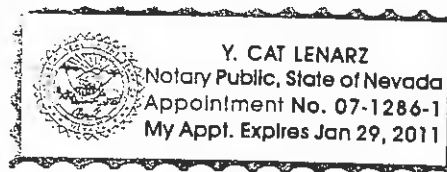
8  
9 supplement, including the points and authorities and any exhibits attached hereto and  
10 the same are true and correct to the best of my knowledge and belief.

11 3. For these reasons, I am requesting that the Court grant me the relief sought in my  
12 countermotion/opposition.

13  
14   
15 CHRISTINA CALDERON STIPP

16 Subscribed and sworn to before me this  
17 5th day of May, 2010.

18   
19 Notary Public, in and for said  
20 County and State



---

**SUPPLEMENT**  
**EXHIBIT 1**





Christina Calderon-Stipp &lt;ccstipp@gmail.com&gt;

MIA

Christina Calderon-Stipp &lt;ccstipp@gmail.com&gt;

Wed, Sep 2, 2009 at 10:29 AM

To: Mitchell Stipp &lt;mitchell.stipp@yahoo.com&gt;

Mitch,

I was about to use either an enema or a suppository on Mia yesterday, but she insisted that I allow her to try on her own. She had two BM's yesterday on her own. I have been trying to encourage lots of fresh fruits and have continued daily Miralax use. I also purchased Pedialax gummies per Dr. DeSimone's recommendation, but she does not like them.

On Mia's psychiatrist. Dr. Carli Snyder, Luc's Mom, referred me to a Dr. McNaus. Unfortunately, she does not take patients as young as Mia. McNaus referred me to two different psychiatrists who do, Dr. Gravely and Dr. Kalodner.

Dr. Gravely is not taking new patients, but referred me to a Dr. Herbs. Dr. Herbs is taking new patients and does take Sierra Health. Dr. Kalodner is also taking new patients, but is not a provider for Sierra. Kalodner said that through Sierra, she thinks we would have to satisfy a \$500 deductible and pay \$135 per session, but that if we did cash pay, she would work with us.

*Emphasis added.*

I called Sierra and got an authorization for Dr. Herbs and was transferred to Member Services where I wanted to ask them how much we would have to pay for Herbs, deductibles, etc., but they won't talk to me about Mia's benefits without your permission. Please call them and grant this. Their number is 364-1484 Behavioral Healthcare Options.

Carli has not heard of Herbs, but she said she has heard good things about Dr. Kalodner. I don't know what you want to do. On the one hand, out of network provider could be very costly, but by using Kalodner on a cash pay, we would also be able to control the fact of her treatment, which may be detrimental to her in the future. Also, and more importantly, Dr. Kalodner has a good reputation and I want Mia to get the best help.

I'll call Kalodner and ask what the cash pay price is. I don't mind meeting with both, comparing credentials and seeing which one I think after one session would be a better fit for Mia. Herbs is on East Flamingo. Kalodner is in Seven Hills.

*Emphasis added.*

Mia's dressing issues have intensified as the new school year started. She absolutely hates putting on her new uniform, no matter which variation I put on her. Yesterday, I pulled her from the car kicking and screaming. As I was closing the door, she tried to leap back into the car and caught her finger in the car door. It didn't close completely on it, ie., she managed to pull it out but not before it was pinched. I applied ice to it and it is fine now.

She is perfectly normal prior to putting on her uniform and by the time I pick her up, she is fine when I pick her up from school. She even expresses the desire to stay full day although then backs off of this when I try to make arrangements to see if she can try out full day.

Her frustration and anger at the uniform sours her outlook on school in general. I don't like this. I also hate to see her struggle every day with simple things like this.

She also struggles here with the underwear issues. When I give up because I am tired of stretching, poor Ethan tries to help too, she cries, "I can't help it, momma, I just can't help it."

She told me her jacket is new. She wears it to cover up her uniform sometimes, and new dresses that I may make her wear on occasion, but it is less helpful this year than last. As for new shoes, I bought an identical new pair as well, but was not able to get her to switch them out for the old ones. I was waiting until

school started and was going to pull something like you did with the old ones.

When she is home, she loves to be in underwear only. Although when guests arrive or when we leave to go out, she knows it's time to dress. She prefers her ladybug dress although when she came home from your house on Sunday she was upset that it had "shrunk."

She will only wear one bathing suit here too, even though I have purchased many new ones, like other clothes, in different sizes.

Dr. McNaus listened to my issues with Mia briefly. She said it sounded to her like mild OCD. Cari said not to jump on the OCD diagnosis too quickly. She would like to rule out acting out due to the divorce situation and also, possible, touch related sensory issues.

Let me know what you think in terms of Kalodner v. Herbs.

---

--Christina

On Mon, Aug 31, 2009 at 6:26 PM, Mitchell Stipp <[mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)> wrote:

She did not have a bowel movement. I gave her miralax and fiber vitamins each day. At this point, you may try an enema (which you can buy over the counter for kids at Albertsons). I did this the day before the start of our vacation. She thought it was a suppository. It cleared her out completely. After that, she used the bathroom daily (sometimes 2x per day) while on vacation.

Feel free to make an appointment with a child psychologist regarding the clothes issue. She struggles with me as well. She wants to wear only one dress (rainbow one) and one swimsuit and wants her underwear constantly stretched. This weekend I stopped stretching her underwear and made her do it (if she wanted it stretched). As far as the clothes, I have also been working with her. I tell her in advance that she has to wear something else the following days when she chooses her rainbow dress so she can anticipate the change. I have had some success with this (especially when we were on vacation). She wore 5 different dresses without much fuss. She also is wearing new shoes and has a new jacket (new versions of her old ones). I lied to her about the shoes and told her they were sent out to be cleaned and delivered to your house. She complained a lot about it but eventually let it go (but I think only because we were at Disneyland). I am not sure if she has recognized the new jacket isn't her old one. I have had no success with the swimsuit.

I want to know who the psychologist is and when she has an appointment.

-----Original Message-----

From: Christina Calderon-stipp [<mailto:ccstipp@gmail.com>]  
Sent: Monday, August 31, 2009 9:20 AM  
To: Mitchell Stipp  
Subject: MIA

Mitch,

Did MIA have bm over the weekend? She seemed to be struggling last night?

Today's school drop off was her hardest so far. She is struggling with her dressing issues and new environment. As I have mentioned before, I would like to take her to a doctor for the clothing issues.

---

**SUPPLEMENT**  
**EXHIBIT 2**



Christina Calderon-Stipp &lt;ccstipp@gmail.com&gt;

---

**Mia Psych****Mitchell Stipp <mitchell.stipp@yahoo.com>****Wed, Sep 2, 2009 at 4:11 PM**

To: Christina Calderon-Stipp &lt;ccstipp@gmail.com&gt;

I do not have any problem with you interviewing Dr. Kalodner. However, I do not want you to engage her services unless I approve. I also want to meet with her separately and interview her. Please provide her contact information.

---

I agree that cash payments are the best option.

*Emphasis added.*

---

**From:** Christina Calderon-Stipp [mailto:[ccstipp@gmail.com](mailto:ccstipp@gmail.com)]

**Sent:** Wednesday, September 02, 2009 10:44 AM**To:** Mitchell Stipp**Subject:** Mia Psych

Mitch,

*Emphasis added.*

I talked to Kalodner. She says her initial visit is \$250, but \$200 cash pay. Office visits are \$200, cash pay \$150 or less depending on financial need. She says that she wouldn't recommend going through Sierra either or any insurance at that (she says she has a 15yr old who she does not use her insurance for counseling), because then the child has a record. She qualifies this by saying that she would use insurance if the psychiatric diagnosis is something like bipolar where long term treatment is required.

She seemed really friendly and easy to talk to. I am inclined to go with her versus Herbs because of her reputation and giving Mia a record issue. What do you think?

—Christina

---

---

**SUPPLEMENT**  
**EXHIBIT 3**



Christina Calderon-Stipp &lt;ccstipp@gmail.com&gt;

---

## Achievement Therapy Center

Christina Stipp <ccstipp@gmail.com>  
To: Mitchell Stipp <mitchell.stipp@yahoo.com>

Tue, Dec 15, 2009 at 11:41 AM

I will contact her immediately.

Sent from my iPhone

On Dec 13, 2009, at 7:52 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:

---

Please see the attached assessment of Mia prepared by Achievement Therapy Center. Dr. Stegen-Hanson would like to meet with you (if you would like) to discuss the report and the proposed treatment program. Basically, it consists of weekly sessions for approximately 3 months. I would like you to contact her as soon as possible. Mia is very comfortable at the facility and has expressed a desire to return. Mia believes the facility and proposed treatments are like "MyGym," and I would like to keep it that way. Please let me know if and when you meet with Dr. Stegen-Hanson and whether you will take Mia to weekly appointments. Based on my timeshare and the facility's office hours, I am unable to take her to weekly sessions (although I am willing to take Mia if you allow me to pick her up and drop her off).

<Achievement Therapy Evaluation-Mia Stipp.pdf>

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**SUPPLEMENT**  
**EXHIBIT 4**

Christina Calderon-Stipp <ccstipp@gmail.com>

## Occupational Therapy

Christina Calderon-Stipp <ccstipp@gmail.com>  
To: Mitchell Stipp <mitchell.stipp@yahoo.com>

Thu, Dec 31, 2009 at 4:47 PM

Mitch,



I was unable to meet with Dr. Stegen-Hanson this week due to illness. I have rescheduled the appointment for January 6, 2009, at 1:00 p.m. I will be bringing Mia to begin occupational therapy with her at that time. As always, you are more than welcome to attend as well, or, if you are not there, I will send you updates as I always do.

--Christina




---

**SUPPLEMENT**  
**EXHIBIT 5**

From:  "Mitchell Stipp" <mitchell.stipp@yahoo.com>  
Subject: RE: Open House  
To:  Maria Amalfitano

---

Thu, Oct 08, 2009 8:46:02 PM 

Thank you for your email below. I had a wonderful time. Ms. Kline took a picture of Mia, Ethan, Christina and me on the blue couch during the event. I would ask that you please delete this image from your school's camera and not use the image or images for any purpose. I do not want it displayed in the classroom, the school or provided to Christina Stipp or anyone under any circumstances. Thank you in advance for your cooperation.

---

-----Original Message-----

From: Maria Amalfitano [mailto:mamalfitano@adsrm.org]  
Sent: Wednesday, October 07, 2009 1:40 PM  
To: [mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)  
Subject: Open House

Hi Mitchell,

I just wanted to remind you about Back-to-School Open House tomorrow night. Children and parents are invited to join the teachers in the classroom for student led scavenger hunts. Contact me if you have any questions.  
Thank you,

Mrs. Stoehr

Maria Amalfitano Stoehr  
Lead Teacher, ECEC  
Alexander Dawson School  
(702) 949-3600 x428

This message, including all attachments, is for the sole use of the intended recipient(s) and may contain confidential information. Any unauthorized review, use, disclosure, alteration or distribution is strictly prohibited and may violate state or federal laws. If you are not the intended recipient, please contact the sender and destroy all copies of this message.

---

**SUPPLEMENT**  
**EXHIBIT 6**



Date: 10.08.09 Person Completing Form: Mitchell Stipp

Reason For Referral: Clothing Issues

Child's Name: Mia Stipp Age: 4

Sex: ( ) Male ☒ Female Birth date: 10.19.04

Who does your child live with and where? (e.g. house, apartment, etc.): \_\_\_\_\_

Mother's Name: Amy Stipp

Address (if different) 2055 Alcovia Ridge Dr.

Mother's cell #: 277-6537

Employer's Name: \_\_\_\_\_

Work Phone #: \_\_\_\_\_

Father's Name: Mitchell Stipp

Address (if different): 2055 Alcovia Ridge Dr.

Father's cell #: 378-1907

Employer's Name: \_\_\_\_\_

Work Phone #: \_\_\_\_\_

#### Birth and Health History:

Was your child premature? ☐ - Yes ☒ - No

Duration of pregnancy: Normal - 9 months / 40 weeks

Birth Weight: 5 pounds 2 ounces

Apgar Scores: 10

Were there any difficulties during the pregnancy? ☐ - Yes ☒ - No

Please describe:

Were there any difficulties at the time of birth? ☐ - Yes ☒ - No

Please describe:

1 ROC  
2 **DONN W. PROKOPIUS, CHTD.**  
3 **DONN W. PROKOPIUS, ESQ.**  
4 Nevada State Bar No. 006460  
5 931 South Third Street  
6 Las Vegas, Nevada 89101  
7 (702) 474-0500/ Fax (702) 951-8022  
8 [dwp\\_law@yahoo.com](mailto:dwp_law@yahoo.com)  
9 Attorney for Plaintiff CHRISTINA CALDERON STIPP

10  
11 **DISTRICT COURT, FAMILY DIVISION**  
12 **CLARK COUNTY, NEVADA**  
13

14 CHRISTINA CALDERON STIPP,	)	CASE NO.	D- 08-389203-Z
	)	DEPT. NO.	O
15 Plaintiff,	)		
	)		
16 v.	)		
	)		
17 MITCHELL DAVID STIPP,	)		
	)		
18 Defendant.	)		
	)		

19  
20 **RECEIPT OF COPY**  
21

22 I hereby certify and acknowledge the receipt of a true and correct copy of Plaintiff's  
23 Supplement to Countermotion to Set Aside August 7, 2009 Stipulation and Order Due to  
24 Defendant's Fraud Upon the Court, Grant Discovery, Partition Undisclosed Martial Assets, and  
25 For Sanctions and Opposition to Defendant's Motion to Confirm Parties as Joint Custodians and  
26 to Modify Timeshare Arrangement in the above-entitled matter on this <sup>6th</sup> day of May, 2010.

27 BY:

28 *Radford J. Smith* <sup>12:20pm</sup> for  
RADFORD J. SMITH, ESQ.

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EXHIBIT “H”**

Docket 57327 Document 2011-01573

  
CLERK OF THE COURT

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DISTRICT COURT  
CLARK COUNTY, NEVADA

CHRISTINA CALDERON STIPP,

Plaintiff,

v.

MITCHELL DAVID STIPP,

Defendant.

CASE NO.: D-08-389203-Z

DEPT.: O

FAMILY DIVISION

ORAL ARGUMENT REQUESTED

YES ☒ NO ☐

**SUPPLEMENT TO MOTION TO CONFIRM PARTIES AS JOINT PHYSICAL CUSTODIANS  
AND TO MODIFY TIMESHARE ARRANGEMENT AND OPPOSITION TO  
COUNTERMOTION TO SET ASIDE AUGUST 7, 2009 STIPULATION AND ORDER DUE TO  
DEFENDANT'S FRAUD UPON THE COURT, GRANT DISCOVERY, PARTITION  
UNDISCLOSED MARITAL ASSETS, AND FOR SANCTIONS**

DATE OF HEARING: May 6, 2010

TIME OF HEARING: 2:00 p.m.

COMES NOW, Defendant MITCHELL D. STIPP ("Mitchell"), by and through his attorney  
Radford J. Smith, Esq., of the firm of Radford J. Smith, Chartered, and submits the following points and  
authorities in support of Mitchell's supplement referenced above.

This supplement is made pursuant to EDCR 2.20(f) and based upon the points and authorities  
attached hereto, the affidavit of Mitchell Stipp attached as Exhibit "A" and all pleadings and papers on

**Details of filing titled:**  
***Supplement to Motion to Confirm Parties as Join...***  
**for Case Number D389203**

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11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13 CHRISTINA CALDERON STIPP,

14 Plaintiff,

15 v.

16 MITCHELL DAVID STIPP,

17 Defendant.

CASE NO.: D-08-389203-Z

DEPT.: O

**FAMILY DIVISION**

**ORAL ARGUMENT REQUESTED**

YES ☒ NO ☐

18 **SUPPLEMENT TO MOTION TO CONFIRM PARTIES AS JOINT PHYSICAL CUSTODIANS**  
19 **AND TO MODIFY TIMESHARE ARRANGEMENT AND OPPOSITION TO**  
20 **COUNTERMOTION TO SET ASIDE AUGUST 7, 2009 STIPULATION AND ORDER DUE TO**  
21 **DEFENDANT'S FRAUD UPON THE COURT, GRANT DISCOVERY, PARTITION**  
22 **UNDISCLOSED MARITAL ASSETS, AND FOR SANCTIONS**

23 DATE OF HEARING: May 6, 2010

24 TIME OF HEARING: 2:00 p.m.

25 COMES NOW, Defendant MITCHELL D. STIPP ("Mitchell"), by and through his attorney  
26 Radford J. Smith, Esq., of the firm of Radford J. Smith, Chartered, and submits the following points and  
27 authorities in support of Mitchell's supplement referenced above.

28 This supplement is made pursuant to EDCR 2.20(f) and based upon the points and authorities  
attached hereto, the affidavit of Mitchell Stipp attached as Exhibit "A" and all pleadings and papers on

1 file in this action, and any oral argument made or evidence introduced at the time of the hearing on May  
2 6, 2010.

3  
4 DATED this 3rd day of May, 2010.

5 RADFORD J. SMITH, CHARTERED

6   
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13  
14 I.

15 INTRODUCTION

16 Mitchell D. Stipp ("Mitchell") filed his Motion to Confirm Parties as Joint Physical Custodians  
17 and to Modify Timeshare Arrangement on October 29, 2009. Christina Calderon-Stipp ("Christina")  
18 filed her opposition and countermotion on November 30, 2009. Mitchell filed his opposition and reply  
19 to Christina's opposition and countermotion on December 7, 2009, and Christina filed her reply to  
20 Mitchell's opposition on December 8, 2009. The Court held a hearing on the foregoing matters on  
21 December 8, 2009. At the hearing, the Court ordered a child custody assessment to be performed by  
22 Dr. John Paglini. Dr. Paglini has completed his child custody assessment and submitted the report to the  
23 Court on April 29, 2010. The Court has scheduled a hearing for May 6, 2010 at 2:00 p.m. to consider  
24 the findings and recommendations of Dr. Paglini. By this Supplement, Mitchell respectfully submits to  
25 the Court that (i) an evidentiary hearing should be held on his motion and that discovery should be  
26 permitted by the Court with respect to child custody matters, or alternatively the Court should grant  
27 Mitchell's motion confirming the parties as joint physical custodians and providing Mitchell an equal  
28 timeshare arrangement, and (ii) Mitchell should be reimbursed for the costs of the child custody

1 assessment and for his attorney's fees and costs of opposing Christina's motion for reconsideration  
2 heard by the Court on April 13, 2010.

3  
4 II.

5 STATEMENT OF FACTS

6 The parties have two children, Mia, born October 19, 2004, and Ethan, born March 24, 2007.  
7 This Court entered the parties' Decree of Divorce on March 6, 2008 (the "Decree") upon their joint  
8 petition for divorce filed in February of 2008. The Decree incorporates the terms and conditions of the  
9 parties' marital settlement agreement entered into and dated as of February 20, 2008 ("MSA").  
10 Christina filed a motion to confirm herself as the primary physical custodian on December 17, 2008.  
11 Mitchell vigorously opposed Christina's motion and filed a countermotion seeking additional time with  
12 the children. The parties attended mediation and no resolution occurred. At the hearing of February 24,  
13 2009, this Court denied all motions. On April 27, 2009, Mitchell filed his motion for reconsideration or  
14 in the alternative a motion to modify the timeshare arrangement. At the hearing on Mitchell's motion  
15 held on June 4, 2009, this Court again ordered the parties to attend mediation. The parties attended  
16 mediation and modified the terms of the MSA through a stipulation and order signed by the parties on  
17 July 8, 2009 and entered by this Court on August 7, 2009 ("SAO").

18  
19  
20  
21 Shortly after the entry of the SAO, the parties' daughter Mia began suffering the ill effects of a  
22 constant barrage of disparagement about Mitchell and his wife, Amy Stipp ("Amy"), from Christina.  
23 Mia's problems became so severe that the parties placed her into psychological counseling. This Court  
24 has never adjudicated the issue of Christina's disparagement, and her marginalization of Mitchell's  
25 parental role with the children. While Mitchell had hoped that entering into a resolution with Christina  
26 would establish common ground upon which the parties could move forward with their respective lives  
27 as co-parents of their minor children, Christina embarked on a campaign of harassment with the idea  
28

1 that she was immune from any consequences as a result of the SAO. Under these circumstances,  
2 Mitchell had no other alternative but to file his October 29, 2009 motion. The change in the law  
3 regarding the standards for determining physical custody that occurred in August of 2009 had nothing to  
4 do with Mitchell's original motivation for filing his motion. However, the parties' actual physical  
5 custody arrangement must be reviewed by the Court in light of this change and the parties' clear  
6 intention to be joint physical custodians under the MSA and SAO.  
7

### 8 III.

### 9 ARGUMENT

#### 10 **1. There are no contraindications that exist that would preclude Mitchell from having** 11 **more physical time with the children.**

##### 12 **a. Mitchell does not abuse alcohol.**

13  
14 During the course of the evaluation, Dr. Paglini referred Mitchell to Dr. Michael Levy, an  
15 addictionologist, who provided an *objective review* of Christina's allegation that Mitchell abuses  
16 alcohol. A comprehensive metabolic panel and complete blood count together with a GGTP (sensitive  
17 test for recent alcohol use) was performed and the results of the laboratory data revealed *no biological*  
18 *markers associated with recent or chronic use of alcohol*, and a twelve (12) panel urine drug screen  
19 was negative for all drugs tested. Dr. Levy opined that Mitchell does not meet the criteria for alcohol  
20 dependence, and Dr. Paglini agreed in his report.  
21  
22

##### 23 **b. Mitchell's driving record is not an issue.**

24 Dr. Paglini concluded that Mitchell is aware of Christina's concern about his driving record and  
25 that Mitchell obviously does not want to place his children in jeopardy. While Dr. Paglini cautioned  
26 Mitchell on this issue, he believes Mitchell will engage in appropriate conduct.  
27

28 ...

1                   **c. Mitchell is not relocating to Texas.**

2           Christina raised an additional concern with Dr. Paglini during the course of the child custody  
3 evaluation of providing Mitchell additional time. Dr. Paglini reports that Christina fears that if Mitchell  
4 receives more time that he eventually will request the Court to move to Texas and take the children.  
5 First, Christina has never raised this issue with Mitchell or in any pleadings before the Court. Second,  
6 Dr. Paglini never discussed this issue with Mitchell *at all* during the course of the child custody  
7 evaluation. And finally, Mitchell has not petitioned the Court to re-locate with the children to Texas.  
8 The fact is that Mitchell does not intend to move anywhere with the children and desires to continue to  
9 raise them here in Las Vegas, Nevada, which is the children's home.  
10  
11

12                   **d. Dr. Paglini's only reservation about Mitchell's request for additional time fails**  
13 **to consider the actual circumstances under which he engaged Dr. Kalodner and**  
14 **Dr. Stegen-Hansen.**

15           Dr. Paglini provides that the *only reservation* about Mitchell's request for additional time is the  
16 fact that Mitchell obtained therapy for Mia from Dr. Melissa Kalodner without Christina's consent, and  
17 Mitchell obtained an evaluation of Mia from Dr. Tania Stegen-Hansen also without Christina's consent.  
18 However, Dr. Paglini does not conclude that Mitchell should not be provided additional time by this  
19 Court for this reason. While Mitchell generally agrees that parents should both consent to medical  
20 treatment for their children, Mitchell contends that Dr. Paglini's reservation ignores the actual  
21 circumstances under which Dr. Kalodner and Dr. Stegen-Hansen were engaged. How was Mitchell  
22 supposed to obtain an impartial evaluation of Mia's issues if Christina was trying to control the process,  
23 and Mitchell suspected Christina of emotionally abusing Mia? Even the Court at the December 8, 2009  
24 hearing ruled that the *parties could select their own therapist* if the parties could not agree.  
25  
26

27           Dr. Paglini interviewed Dr. Kalodner for purposes of the child custody evaluation. During that  
28 interview, Dr. Paglini discussed with Dr. Kalodner her letter to Mitchell dated December 4, 2008,

1 Christina's letter to Dr. Kalodner dated January 8, 2010, and Dr. Kalodner's treatment records of Mia.  
2 These letters and treatment notes are attached hereto as Exhibit "B." His interview of Dr. Kalodner  
3 makes the following clear:  
4

- 5 • Christina *actually contacted and interviewed Dr. Kalodner* for purposes of  
6 evaluating and treating Mia.
- 7 • Christina's *misrepresented her financial position* in order to get Dr. Kalodner to  
8 reduce her hourly rates.
- 9 • Dr. Kalodner felt that Christina was attempting to *dictate the pace of her practice*  
10 (e.g., Christina wanted to bring Mia in for the sessions).
- 11 • Dr. Kalodner reported that her letter to Mitchell dated December 4, 2008 contained  
12 statements Mia made during her treatment and such statements were made by Mia  
13 *spontaneously*.
- 14 • Christina met with Dr. Kalodner on January 8, 2010. Christina *made threats* to Dr.  
15 Kalodner. Dr. Kalodner felt that Christina was *manipulating the situation* and was  
16 *litigious*.
- 17 • Dr. Kalodner reported that she received Christina's letter dated January 8, 2010 and it  
18 had *numerous untruths and manipulated the conversation*.
- 19 • Dr. Kalodner felt *manipulated* by Christina, she denied that she lacked trust in  
20 Mitchell, and felt that she *actually lacked trust in Christina* because she  
21 *misrepresented the facts* of their meeting.
- 22 • Dr. Kalodner reported that she felt *very harassed* by Christina, and as such engaged  
23 an attorney.

1 Mitchell believed Mia's clothing issues and emotional problems would remain undiagnosed and  
2 untreated. As a result, Mitchell decided to act in the best interest of Mia. Mitchell engaged Dr.  
3 Kalodner to evaluate Mia's clothing issues and assist him and his wife Amy Stipp ("Amy") with Mia's  
4 emotional issues. Dr. Kalodner referred Mitchell to Dr. Stegen-Hansen, who Mitchell engaged to  
5 evaluate Mia's clothing issues. Dr. Stegen-Hansen concluded that Mia suffers from a mild sensory  
6 processing disorder. Mitchell provided the evaluation report to Christina and invited Christina to meet  
7 with Dr. Stegen-Hansen to discuss the evaluation and treatment. *No treatment occurred by Dr. Stegen-*  
8 *Hansen of Mia's sensory processing disorder without the knowledge and participation of Christina.*  
9 Christina has participated in all of Mia's occupational therapy sessions. Christina now accepts that  
10 Mia's clothing issues are caused by a sensory processing disorder. Both of the parties have been  
11 regularly attending Mia's weekly occupational therapy sessions. Clearly, Mitchell's engagement of Dr.  
12 Kalodner *benefited Mia* because the cause of Mia's clothing issues was properly diagnosed and she is  
13 receiving therapy for this issue. Without Dr. Kalodner's evaluation, Mia's clothing issues would not  
14 have been properly diagnosed and treated. Under these circumstances, the Court should have no  
15 reservations at all about providing Mitchell additional time with the children.

19 **2. There is evidence the Mia heard negative comments about Mitchell and Amy.**

20 The standard as proposed by Christina for holding an evidentiary hearing on Mitchell's motion is  
21 not whether Dr. Paglini concluded that Mia was emotionally abused by Christina. In fact, Mitchell does  
22 not need to prove that Mia has been emotionally abused *at all* in order to obtain an evidentiary hearing  
23 on his motion (or for the Court to modify the timeshare arrangement).

24 Dr. Paglini's report seems to indicate that Mia at the time of his assessment did not present any  
25 symptoms of emotional abuse or alienation. Of course, significant time has passed since Mitchell filed  
26 his motion on October 29, 2009. Dr. Paglini began his work on the child custody evaluation at the end  
27  
28

1 of December of 2009, which was more than *two (2) months* after Mitchell filed his motion. During this  
2 time period, Dr. Paglini completed psychological testing of the parties, detailed family and marital  
3 histories, interviews of the parties and collateral sources, review of pleadings, correspondence, and other  
4 information supplied by the parties. Dr. Paglini spent significant time and resources examining, among  
5 other items, whether Mitchell had an affair during the term of his marriage to Christina,<sup>1</sup> his work  
6 schedule, responsibilities, activities and environment while employed by PLISE and married to  
7 Christina, and his alcohol consumption while Mitchell was in college, law school and while working in  
8 private practice at Kummer Kaempfer and at PLISE. Unfortunately, Dr. Paglini *never* interviewed Mia  
9 until March 1, 2010, which was more than *four (4) months* after Mitchell filed his motion. Rather than  
10 focus on the issues affecting Mia, Dr. Paglini seemed to be directed by Christina to examine the events  
11 of the parties' prior relationship (including their marriage) which ended in March of 2008—more than  
12 two (2) years ago. Furthermore, Dr. Paglini spent *less than sixty (60) minutes* alone with Mia during  
13 the entire four (4) months of the child custody evaluation. These interviews which even Dr. Paglini  
14 described as brief occurred on March 1, 2010 and March 4, 2010.

15  
16  
17  
18 It is important to note that Dr. Paglini acknowledges in his report that it is quite possible that Mia  
19 was exposed to conflict between Mitchell and Christina, and *internalized Amy and Mitchell as bad*, that  
20 it is quite possible that Mia overheard conversations between Christina and her family members, and  
21 *perhaps it did occur that Christina made derogatory comments to Mia.* Dr. Paglini noted that it was  
22 consistent with these conclusions that Mia repeated such comments to Dr. Kalodner on a *spontaneous*  
23 *basis*. Therefore, Dr. Paglini thought that Mia heard these comments in her environment and interpreted  
24 impressions from her parents, *or Christina made these comments to Mia*. He did not conclude that Mia  
25 was coached by Mitchell in any way as Christina previously alleged in her pleadings. In fact, Christina  
26  
27

---

28 <sup>1</sup> Although not relevant to the motions before the Court, Dr. Paglini never concluded in his report that Mitchell had an affair while married to Christina.



1 admitted to Dr. Paglini when asked about whether she made negative statements to Mia about Mitchell  
2 and Amy that she was not a perfect person and that she made mistakes. Interestingly, Dr. Paglini does  
3 not report that Christina denied making these statements to Mia.  
4

5 While Dr. Paglini does not believe these acts constitute emotional abuse and did not result in  
6 alienation, he reached this conclusion because at the time of his assessment Mia showed no signs of  
7 significant trauma and appeared bonded both with Mitchell and Amy. In other words, there was no  
8 lasting effect on Mia if these comments were made. Dr. Paglini failed to consider in his report the  
9 possibility that Christina ceased her bad behavior during the pendency of the litigation and Mia likely  
10 recovered from any significant emotional impact between the time Mitchell filed his October 29, 2009  
11 motion and his assessment of Mia. Clearly, Mia's behavior and responses to Dr. Paglini's questions  
12 during his brief interviews *are inconsistent with communications* Mia made to Mitchell (and Amy) and  
13 his sister, Megan Cantrell (aka Megan Stipp), which served as the basis of Mitchell's October 29, 2009  
14 motion and the statements Mia made to Dr. Kalodner as recorded in Dr. Kalodner's letter to Mitchell  
15 dated December 4, 2008 and her treatment notes. Dr. Paglini's assessment of Mia is also inconsistent  
16 with Christina's own description of Mia's emotional issues in her pleadings and the records of Dr. Joel  
17 Mishalow.  
18  
19

### 20 **3. Mitchell has demonstrated adequate cause for an evidentiary hearing.**

21 Ordering an evidentiary hearing and permitting the parties to conduct discovery related to child  
22 custody matters ensures that all relevant information will be before the Court prior to ruling on  
23 Mitchell's motion and the information evaluated by Dr. Paglini was relevant, complete and accurate.  
24 There are no consequences to Christina for providing false or incomplete information to Dr. Paglini  
25 (unless Dr. Paglini can actually determine absolutely that such information was false or incomplete  
26 which seems impossible without discovery). Mitchell should not have to accept Dr. Paglini's interviews  
27  
28

1 of Christina who Mitchell alleges emotionally abused Mia, and Christina's therapist, Ann Nichols, who  
2 indicates to Dr. Paglini that Christina has now miraculously moved on during the pendency of Mitchell's  
3 motion, as the "final word" on the matter. Mitchell should also have an opportunity to depose Dr.  
4 Kalodner and Dr. Mishalow, who actually provided treatment to Mia during the period when Mitchell  
5 alleges that Mia experienced the emotional problems to address the deficiencies that exist with Dr.  
6 Paglini's report. As the Court is aware, testimony under oath or the provision of information pursuant to  
7 a subpoena subjects a person to sanctions for contempt and the penalty of perjury. At minimum,  
8 Christina should be required to submit to a deposition, respond to written discovery, and be forced to  
9 testify at an evidentiary hearing about these matters.

12 The Nevada Supreme Court in *Rooney v. Rooney*, 109 Nev. 540, 853 P.2d 123 (1993), provided  
13 that the Court has discretion to summarily deny a motion to modify custody without holding an  
14 evidentiary hearing if the moving party cannot demonstrate adequate cause. *Rooney*, 853 P.2d at 124  
15 (citation omitted). Assuming this standard even applies to Mitchell's motion to modify the timeshare  
16 arrangement, "adequate cause" requires something more than allegations which, if proven, might permit  
17 inferences sufficient to establish grounds for a custody change. *Id.* at 125 (citations omitted).  
18 According to *Rooney*, adequate cause arises where the moving party presents a prima facie case for  
19 modification. *Id.* To constitute a prima facie case it must be shown that: (1) the facts alleged in the  
20 affidavits are relevant to the grounds for modification; and (2) the evidence is not merely cumulative or  
21 impeaching. *Id.* (citation omitted).

24 **a. The facts alleged in the affidavits attached to Mitchell's October 29, 2009 motion**  
25 **are relevant to the grounds for modification and are not refuted by Dr. Paglini's**  
26 **report.**

27 Mitchell contends that Christina has emotionally abused Mia. Mia began to show signs of this  
28 trauma after the entry of the SAO. She had severe mood swings and significant anger management

1 issues. Mia was prone to frequent emotional outbursts (or meltdowns). The fact that Mia's emotional  
2 issues may have improved during the four (4) months following the filing of his motion does not mean  
3 that Mia was not affected by the actions of Christina in the months after entry of the SAO. Mitchell  
4 believes Mia's behavior was the result of Christina's attempts to alienate the children from Mitchell  
5 whether they actually resulted in alienation or not. Mitchell attached to his October 29, 2009 motion his  
6 affidavit and the affidavit of his sister as support for these allegations. These affidavits are relevant to  
7 the grounds for modification asserted by Mitchell in his motion. Dr. Paglini's child custody assessment  
8 does not refute Mitchell's allegations. The letter from Dr. Kalodner to Mitchell dated December 4,  
9 2009 and her treatments notes of Mia also support Mitchell's allegations. However, Dr. Paglini  
10 concluded in his report that Mia did not at the time of his assessment suffer from emotional abuse or  
11 alienation. This does not mean that Christina did not make these statements to Mia. This does not mean  
12 that Mia was not affected by these statements when they were made. And finally, this does not mean  
13 that Christina will not make such statements in the future and that Mia will not be affected by them.

14  
15 It is significant to note that Christina does admit to Dr. Paglini as indicated in his report to  
16 making derogatory comments about Amy to Mitchell (just not to Mia). Christina further admits to  
17 providing information to Mia's school administrator regarding her negative perceptions of Mitchell.  
18 The Court is aware of these circumstances as they have been described in detail in Mitchell's October  
19 29, 2009 motion.

20  
21 **b. The evidence is not merely cumulative or impeaching.**

22  
23 Mitchell has *never* alleged in any pleadings or at any hearing prior to his October 29, 2009  
24 motion that Christina has emotionally abused Mia or that Mia has been impacted at all by negative  
25 statements Christina has made to Mia. However, Mitchell admits that he has raised the issue of parental  
26 alienation with the Court but *only* in his opposition and response filed on June 3, 2009 to Christina's  
27  
28

1 motion to continue the hearing of June 4, 2009. At the hearing on June 4, 2009, the Court referred the  
2 parties to mediation, vacated the hearing scheduled for July 2, 2009 on Christina's motion to continue  
3 and Mitchell's opposition and response, and scheduled an evidentiary hearing with regard to custody.  
4 The evidentiary hearing scheduled by the Court with respect to custody *never* occurred. Instead, the  
5 parties entered into the SAO on July 7, 2009, which settled *only* the matters raised by Mitchell's April  
6 27, 2009 motion. Mitchell's June 3, 2009 opposition and response was *not* addressed by the SAO. The  
7 issue of parental alienation was never raised by Mitchell in his April 27, 2009 motion, and it was never  
8 adjudicated by the Court or settled by the parties.  
9

10  
11 Mitchell has clearly raised the issue that Mia was impacted by negative statements Christina  
12 made to her in his October 29, 2009 motion. If the Court denies Mitchell's motion at the hearing on  
13 May 6, 2010, Mitchell will unlikely be permitted to raise this issues again. *See McMonigle v.*  
14 *McMonigle*, 110 Nev. 1407, 887 P.2d 742 (1994); *Castle v. Simmons*, 120 Nev. 98, 86 P.3d 1042  
15 (2004). Therefore, it is important that the Court order an evidentiary hearing on Mitchell's motion.  
16

17 Dr. Paglini concludes in his report that Christina *likely had unresolved issues towards Mitchell*.  
18 He indicates that Christina was angry about alleged affairs. She had to deal with Mitchell marrying  
19 Amy and Amy moving into the home previously occupied by the parties, and she had to negotiate the  
20 emotions of having a different woman involved in the children's lives. Dr. Paglini indicates that there is  
21 *no doubt that these dynamics resurfaced* after the entry of the SAO. Dr. Paglini cites to Christina's  
22 conversation with Dr. Kalodner in early September of 2009 during which she impressed upon Dr.  
23 Kalodner her unresolved issues with respect to Mitchell rather than focusing on Mia's clothing and  
24 emotional issues and the fact that Christina communicated to Dr. Kalodner that she did not want Amy  
25 involved in Mia's therapy.  
26  
27  
28

Christina communicated to Dr. Paglini that she has been in therapy with Ann Nichols for three (3) years and *continues to receive therapy*. Dr. Paglini interviewed Ms. Nichols for purposes of the evaluation. While Ms. Nichols has indicated that Christina has made significant progress over the last several months during the pendency of the current litigation, it does not guarantee that Christina's emotional problems will not return. Dr. Paglini makes it very clear in his report that if the parties' issues remain unresolved, it is *likely* that the children *will be emotionally affected* in the future. Ordering an evidentiary hearing will provide the parties an opportunity to resolve their respective issues once and for all. Without an evidentiary hearing, there will be no resolution and there is likely to be additional litigation on the matters.

**4. If the Court is not inclined to order an evidentiary hearing, the Court should grant Mitchell's motion to provide him equal time with the children.**

The parties agreed in the MSA that they would have *joint physical custody* of the children. The terms and conditions of the MSA were incorporated into the Decree except as specifically changed by the SAO. The SAO did not change the physical custody status of the parties with respect to the children. Since the parties entered into the SAO, the Nevada Supreme Court issued its new opinion in *Rivero v. Rivero*, 216 P.3d 213 (2009), modifying the definition of joint physical custody. The Court does not need to make this determination under *Rivero* because Mitchell has not asked the Court to modify the existing joint physical custody arrangement. Mitchell's October 29, 2009 motion is simply a motion to alter the timeshare arrangement to provide him equal time with the children.

**a. The Parties already have joint physical custody of the children.**

Under *Rivero*, the terms of the parties' custody arrangement will control except when the parties move the Court to modify the custody arrangement. Mitchell has not asked the Court to modify the joint physical custody arrangement. His motion requests the Court to provide him equal time with the children consistent with the stated intentions of the parties in the MSA and SAO.

1 Mitchell understands that Christina takes the opposite view. She believes that she now has  
2 primary physical custody of the children under *Rivero* although the Court has not made this  
3 determination. Under these circumstances, Christina views Mitchell's motion as a modification to  
4 custody, which if accepted by the Court, the Court must then undertake the task of applying the vague  
5 guidance set forth in *Rivero* for the "40% annually" standard.  
6

7 Under the formula in *Rivero*, joint physical custody is defined as a party having a child in his or  
8 her "physical custody" approximately three (3) days per week. Mitchell's current timeshare  
9 arrangement with the children provides him normal visitation<sup>2</sup> with the children weekends from 6:00  
10 p.m. on Fridays until 6:00 p.m. on Sundays except as follows: (1) on the first weekend of the month,  
11 Christina has the right to have the children on the weekend in which case Mitchell's time is Wednesday  
12 at 6:00 p.m. until Friday at 6:00 p.m.; and (2) on the second and fourth weekends of the month,  
13 Mitchell's weekend visitation begins on Thursdays at 6:00 p.m. Mitchell also has holiday and vacation  
14 visitation with the children throughout the year. Thus, Mitchell has the children in his physical custody  
15 all or part of three or four days each week.  
16  
17

18 The fact that Mitchell has the children in his physical custody only six hours on some of those  
19 days is irrelevant under the *Rivero* criteria. The *Rivero* court stated:  
20

21 In calculating the time during which a party has physical custody of the child, the district  
22 court should look at the number of days during which a party provided supervision of the  
23 child, the child resided with the party, and during which the party made the day-to-day  
24 decisions regarding the child. The district court should not focus on, for example, *the*  
25 *exact number of hours the child was in the care of the parent*, whether the child was  
26 sleeping, or whether the child was in the care of a third-party caregiver or spent time with  
27 a friend or relative during the period of time in question  
28

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<sup>2</sup> The MSA and SAO use the term "normal visitation" to describe visitation that is not holiday or vacation visitation.

1 *Id.* at 225 (Emphasis added). On these days (like all other times Mitchell has visitation with the  
2 children), he provides for their supervision, they reside at his home, and he makes day-to-day decisions  
3 regarding activities, clothing, food, bathing, and sleep.  
4

5 Under *Rivero*, the Court must make *findings of fact supported by substantial evidence* to  
6 support its determination of physical custody. *Id.* at 227 (citation omitted). The Nevada Supreme Court  
7 concluded that “[s]pecific factual findings are crucial to enforce or modify a custody order and for  
8 appellate review.” *Id.* Therefore, the court “must evaluate the *true nature* of the custodial  
9 arrangement,” pursuant to the standards for calculating the timeshare as described above, “by evaluating  
10 the arrangement the parties are *exercising in practice*,” regardless of any contrary language in the  
11 Degree (and MSA as modified by the SAO). *See id.* (emphasis added). If the Court views Mitchell’s  
12 motion as a request to change custody, the Court must examine the actual physical custodial  
13 arrangement of the parties at the hearing on May 6, 2010 (or it could make this determination at an  
14 evidentiary hearing).  
15  
16

17 **b. An equal timeshare arrangement is in the best interests of the children.**

18 Thus, because the parties continue to share joint physical custody under the *Rivero* formula,  
19 Mitchell’s request for modification of the current timeshare to provide him equal time with the children  
20 must be reviewed under the criteria applicable to that timeshare. Specifically, Mitchell must show that  
21 the change in the custody arrangement is in the children’s best interest. NRS 125.510(2); *Truax v. Truax*,  
22 110 Nev. 437, 438-39, 874 P.2d 10, 11 (1994). Furthermore, an evidentiary hearing is not required  
23 under these circumstances to make this determination.  
24

25 Virtually all psychological studies of post divorce child rearing suggest that the parents’ ability  
26 to cooperate after divorce is the single most important factor in the children’s well being.  
27

28 High-conflict harms children whether it originates with the parents or is fueled by others  
in the adversarial system. The level and intensity of parental conflict is now thought to be

1 the most important factor in a child's postdivorce adjustment and single best predictor of a  
2 poor outcome. Highly conflicted custody cases disrupt and distort the development of  
3 children, placing them at risk for depression and mental disorders, educational failure,  
4 alienation from parents, and substance abuse.

5 *Paradigm Shifts and Pendulum Swings in Child Custody*, Family Law Quarterly, Vol. 42, No. 3, Fall  
6 2008, page 388. The Nevada Legislature and the Nevada Supreme Court have progressively moved  
7 toward an environment that recognizes that the post divorce involvement of both parents is an essential  
8 element of the welfare of the children. In 1981, the Nevada legislature enacted NRS 125.460 in which it  
9 stated that the express policy of the state of Nevada to ensure that minor children have "frequent  
10 associations and a continuing relationship with both parents", and that "both parents share the rights and  
11 responsibilities of child rearing." The Nevada Supreme Court later found that the enactment of NRS  
12 125.460 was a "remarkable historical event," because "throughout most history legislatures and courts  
13 have been blind to the reality that most children are in most cases much better off, after their parents  
14 separate, if they can continue to have two parents rather than only one." *Mosley v. Figliuzzi*, 113 Nev.  
15 51, 62, 930 P.2d 1110, 1117 (1997). In *Mosley v. Figliuzzi*, the Nevada Supreme Court eloquently  
16 expressed the broader meaning of the policy underlying NRS 125.460:  
17  
18

19 The realization that children are better off with both parents has been a long time in  
20 coming. Throughout most child-custody litigation in the past, the child was "awarded" to  
21 one parent or the other; one parent "won" custody, and the other "lost." In either case,  
22 the child lost because the child was in many cases unnecessarily deprived of one parent.  
23 Courts, until recently, seem to have been unable to grasp the rather simple fact that most  
24 children have two loving parents and are entitled to the love of both -- to the greatest  
25 extent possible -- in the event that the two parents decide not to live together in one  
26 household.

27 [ . . . ]

28 There is presently a broad political and scientific consensus that children do better when  
they have two actively involved parents. By encouraging 'frequent associations and a  
continuing relationship with both parents' and by enacting the joint custody preference  
statute our legislature was recognizing the importance of encouraging family  
preservation after separation and divorce and the vital necessity for maintaining both  
paternal and maternal influences on children to the greatest extent possible. The



1 legislature has recognized that the key to preserving the 'best interests' of the child lies  
2 in accepting the principle that it is not necessary for the courts, in child custody decrees,  
3 to perform a 'parentectomy.'

4 113 Nev. at 63-64. (citations omitted).

5 The following is an analysis of the factors listed under NRS 125.480 as required as part of the  
6 Court's consideration of the "best interests" of the children:

7 **i. The wishes of the child if the child is of sufficient age and capacity**  
8 **to form an intelligent preference as to his custody.**

9 The children are not of sufficient age to have a controlling view of their custodial relationship;  
10 however, the children's preferences should not be disregarded. Mia has complained to Mitchell and  
11 Amy that she does not get to spend enough time with them, that her visits are too short, and that she  
12 wants to stay longer but that Christina will not allow her. Mia has expressed these preferences on a  
13 regular basis but more frequently starting in August of 2009. These feelings are clearly confirmed in  
14 Dr. Kalodner's letter to Mitchell dated December 4, 2009 and her treatment records of Mia. Even  
15 Christina admits to Dr. Paglini that Mia expressed a desire to spend more time with Mitchell.  
16

17 **ii. Any nomination by a parent or a guardian for the child.**

18 Not applicable.  
19

20 **iii. Which parent is more likely to allow the child to have frequent**  
21 **associations and a continuing relationship with the**  
22 **noncustodial parent.**

23 Christina has continuously limited Mitchell's time with the children without any legitimate  
24 justification. Interestingly, Dr. Paglini reports that Christina informed him during the child custody  
25 evaluation that she did not seek to exclude Mitchell from the children and that Mitchell is and *should be*  
26 *a pivotal part of the children's lives.*

27 ...

28 ...

1                                    **iv.      The level of conflict between the parents.**

2            The level of conflict between the parents is high as confirmed by Dr. Paglini. It is clear from Dr.  
3 Paglini's report that at the time Mitchell filed his October 29, 2009 motion that Christina's inability to  
4 deal with the parties' divorce and Mitchell's remarriage *resurfaced* after entry of the SAO, and Dr.  
5 Paglini believes as Mitchell alleges that this dynamic clearly affected the parties' ability to co-parent the  
6 children.  
7

8                                    **v.      The ability of the parents to cooperate to meet the needs of the**  
9                                    **child.**

10           Mitchell has done everything he can do to cooperate with Christina on issues affecting the  
11 children; however, Christina insists on complete control of parenting issues (including evaluating and  
12 treating Mia's clothing and emotional problems in September of 2009). Dr. Paglini expressed  
13 reservations about Christina's ability to co-parent with Mitchell based on her dealings with Dr. Kalodner  
14 (although he noted significant progress has been made since September of 2009). Dr. Kalodner reported  
15 in her treatment notes that Christina spent most of her initial session with Dr. Kalodner discussing in  
16 great detail her history with Mitchell. Dr. Kalodner had to re-focus Christina on five (5) occasions. The  
17 focus was supposed to be on Mia. Dr. Kalodner also reported that Christina wanted to do therapy her  
18 way (she wanted to be in the room with Mia during the sessions and then work on parenting strategies  
19 with the parties without Amy after each session).  
20  
21

22           When it became clear after Christina's session with Dr. Kalodner that Christina was not  
23 interested in an impartial review of Mia's issues, Mitchell acted in Mia's best interest and engaged Dr.  
24 Kalodner without Christina to evaluate Mia's issues. Dr. Kalodner referred Mitchell to Dr. Stegen-  
25 Hansen who evaluated Mia for a sensory processing disorder. Clearly, Mitchell's engagement of Dr.  
26 Kalodner benefited Mia because the cause of Mia's clothing issues was properly diagnosed and she is  
27  
28

1 receiving therapy for this issue. Without Dr. Kalodner's evaluation, Mia's clothing issues would not  
2 have been properly diagnosed and treated.

3 Mitchell actively participated in the process of selecting schools for the children for the next  
4 school year. While there was significant disagreement between Mitchell and Christina over this issue  
5 that lasted several months, Dr. Paglini did not examine the matter in his report.

6 Mitchell regularly communicates to Christina any healthcare matters affecting the children while  
7 the children are in his care and responds to all of Christina's emails regarding the same.

8  
9 **vi. The mental and physical health of the parents.**

10 Dr. Paglini concludes in his report that Christina *likely had unresolved issues towards Mitchell*.  
11 He indicates that Christina was angry about alleged affairs. She had to deal with Mitchell marrying  
12 Amy and Amy moving into the home previously occupied by the parties, and she had to negotiate the  
13 emotions of having a different woman involved in the children's lives. Dr. Paglini indicates that there is  
14 *no doubt that these dynamics resurfaced* after the entry of the SAO. Christina obtained therapy during  
15 the pendency of the current litigation and continues to obtain therapy to assist with co-parenting issues.

16  
17 **vii. The physical, developmental and emotional needs of the child.**

18 Mitchell's consistent and regular contact with the parties' very young children is supported,  
19 again, by virtually all psychological studies, which studies uniformly suggest that contact between  
20 parents and young children be frequent and meaningful, and include overnights. See, e.g., the  
21 comprehensive study of the body of psychological data on infants and toddlers found in Family and  
22 Conciliation Courts Review; Los Angeles Jul 2000 Joan B Kelly; Michael E Lamb; Volume: 38 Issue:  
23 3: 297-311, Sage Publications. ISSN: 1047569. Under the current timeshare plan, Mitchell is now  
24 precluded from seeing the children for several days at a time. He no longer is permitted to visit them  
25  
26  
27  
28

1 while at school, and he does not have any communication with the children while they are in the care of  
2 Christina.

3 **viii. The nature of the relationship of the child with each parent.**  
4

5 The children both have a loving and warm relationship with Mitchell and Christina. Dr.  
6 Paglini's report supports this assertion.

7 **ix. The ability of the child to maintain a relationship with any**  
8 **sibling.**

9  
10 Neither party is suggesting that the children be split; however, Mitchell and Amy are planning to  
11 have children and would like the children to have a significant role in their lives.

12 **x. Any history of parental abuse or neglect of the child or a**  
13 **sibling of the child.**

14 None; however, this does not mean that Christina did not make negative statements to Mia, that  
15 Mia was not affected by these statements when they were made, and that Christina will not make such  
16 statements in the future and that Mia will not be affected by them. Dr. Paglini expressly provides in  
17 his report that if the issues between the parties remain unresolved, it is likely that the children *will be*  
18 *emotionally affected* in the future.  
19

20 **xi. Whether either parent or any other person seeking custody has**  
21 **engaged in an act of domestic violence against the child, a**  
22 **parent of the child or any other person residing with the child.**

23 Neither Mitchell nor Christina has engaged in any act of domestic violence.

24 As can be seen from an application of the appropriate factors, there is adequate basis to grant  
25 Mitchell's October 29, 2009 motion for an equal timeshare with the children.

26 ...

27 ...  
28

1       **5. Even if Mia has recovered emotionally and Christina has made significant**  
2       **improvements since the filing of Mitchell's motion, the Court should not reward**  
3       **Christina by failing to provide Mitchell additional time.**

4       Mitchell is relieved if Mia truly shows no signs of significant trauma and if Christina really has  
5       moved on and will not continue making negative statements to Mia about Mitchell and Amy. Mitchell's  
6       request has been simple since Christina initiated litigation in December of 2008: *provide him equal time*  
7       *with the children*. Mitchell does not work. He is capable of caring for the children one-half (1/2) of the  
8       time. He is not asking for a reduction of his child support obligations which exceed the maximum  
9       statutory amount. He does not intend to relocate to anywhere outside of Las Vegas, Nevada, which is  
10      the home of the children.

11       Dr. Paglini determined that *Mitchell is a fit parent*: he does not exhibit any significant parenting  
12      deficits, he has positive qualities, and possesses numerous resiliency factors. Dr. Paglini also concludes  
13      that Mitchell provides excellent care toward the children and he is actively involved in the children's  
14      lives. The only issue of relevance to Dr. Paglini was Mitchell's decision to engage Dr. Kalodner and Dr.  
15      Stegen-Hansen without the consent of Christina which has been clearly addressed above. *None* of the  
16      issues raised by Christina in her pleadings about Mitchell's fitness as a parent (i.e., alcohol abuse and  
17      driving record) were determined to be valid issues by Dr. Paglini in his report. In short, Mitchell has  
18      done nothing wrong that would prevent the Court from providing him equal time with the children.

19       Christina, on the other hand, has been *prone to relapses* with respect to her inability to deal with  
20      the parties' divorce and Mitchell's remarriage to Amy. Dr. Paglini clearly concluded in his report that  
21      this occurred *after entry of the SAO*. Mitchell had no other choice but to file his October 29, 2009  
22      motion. Dr. Paglini also concluded that this dynamic has affected the parties' ability to co-parent the  
23      children. Under these circumstances, it would be a substantial miscarriage of justice to deny Mitchell  
24      additional time with the children. Dr. Paglini even suggests timeshare plans that would be best for the  
25      children.

1 children consistent with an equal timeshare arrangement: (i) three and one-half (3.5) days with  
2 Mitchell and three and one-half (3.5) days with Christina, or (ii) a 2-2-5 plan with Mitchell having the  
3 children Monday and Tuesday and Christina having the children Wednesday and Thursday with the  
4 parties alternating the weekends. Mitchell does not object to either of these alternatives offered by Dr.  
5 Paglini.  
6

7  
8 **6. Mitchell is entitled to be reimbursed the costs of the child custody evaluation and his**  
9 **attorney's fees and costs incurred for opposing Christina's motion for reconsideration**  
10 **heard by the Court on February 13, 2010.**

11 The Court ruled at the hearing on December 8, 2009, that if the child custody evaluation comes  
12 back negative towards Christina, the Court will order Christina to pay for the evaluation. Mitchell paid  
13 Dr. Paglini \$15,500 to complete the report and Dr. Levy \$750 to whom Dr. Paglini referred Mitchell to  
14 evaluate Christina's claims of Mitchell's alcohol abuse as part of the evaluation. The report was clearly  
15 negative toward Christina and she should reimburse Mitchell \$16,250 as the total cost of completing the  
16 report. Additionally, it appears that Christina directed Dr. Paglini to spend significant time and  
17 resources examining the events of the parties' prior relationship (including their marriage) which ended  
18 in March of 2008—more than two (2) years ago. These matters are *not relevant* to the motions before  
19 the Court.  
20

21 Mitchell also incurred \$5,000 in attorney's fees and costs to oppose Christina's motion for  
22 reconsideration heard by the Court on February 13, 2010. At the hearing, the Court denied Mitchell's  
23 countermotion for sanctions under EDCR 7.60 which was filed with his opposition to Christina's motion  
24 for reconsideration. Nevertheless, the Court ruled that it would review Mitchell's request for attorney's  
25 fees after the Court reviewed Dr. Paglini's report. Christina's motion for reconsideration relied  
26 primarily on her letter to Dr. Kalodner dated January 8, 2010. Mitchell argued in his opposition that this  
27 letter was manufactured by Christina. Dr. Paglini's report confirms that Dr. Kalodner communicated to  
28

1 him that Christina's letter contained *numerous untruths and manipulated* Dr. Kalodner's conversation  
2 with Christina. Dr. Paglini's report specifically addresses each of the false statements and  
3 misrepresentations. Therefore, Christina's motion was completely frivolous and she should pay  
4 Mitchell's attorney's fees and costs.  
5

6 IV.

7 CONCLUSION

8 Based upon the foregoing, Mitchell requests that this Court:

- 9
- 10 1. Grant Mitchell's request to file this supplement pursuant to EDCR 2.20(f).
  - 11 2. Grant Mitchell's request for an evidentiary hearing on his motion and authorize discovery  
12 on child custody matters, or alternatively, if the Court does not order an evidentiary hearing, grant  
13 Mitchell's motion confirming the parties as joint physical custodians of the children and providing  
14 Mitchell an equal timeshare.
  - 15 3. Grant Mitchell's request to be reimbursed \$16,250 for the costs of the child custody  
16 evaluation and \$5,000 for attorney's fees and costs for opposing Christina's motion for reconsideration  
17 heard by the Court on April 13, 2010.  
18

19  
20 DATED this 3rd day of May, 2010.

21  
22 RADFORD J. SMITH, CHARTERED

23  
24 RADFORD J. SMITH, ESQ.  
25 Nevada Bar No. 002791  
26 64 N. Pecos Road, Suite 700  
27 Henderson, Nevada 89074  
28 (702) 990-6448  
Attorneys for Defendant Mitchell D. Stipp

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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Radford J. Smith, Chartered ("the Firm"). I am over the age of 18 and not a party to the within action. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. Under the Firm's practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing document described as "Supplement to Motion to Confirm Parties as Joint Physical Custodians and to Modify Timeshare Arrangement and Opposition to Countermotion to Set Aside August 7, 2009 Stipulation and Order Due to Defendant's Fraud Upon the Court, Grant Discovery, Partition Undisclosed Marital Assets, and for Sanctions" on this 3rd day of May, 2010, to all interested parties as follows:

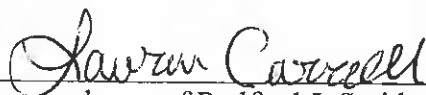
☒ BY MAIL: Pursuant To NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

☒ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below;

☐ BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via electronic mail to the electronic mail address shown below;

☐ BY CERTIFIED MAIL: I placed a true copy thereof enclosed in a sealed envelope, return receipt requested, addressed as follows:

Donn W. Prokopius, Esq.  
Donn W. Prokopius, Chtd.  
931 South 3<sup>rd</sup> Street  
Las Vegas, Nevada 89101  
Facsimile: 702-951-8022

  
An employee of Radford J. Smith, Chartered



# EXHIBIT A

AFFIDAVIT OF MITCHELL DAVID STIPP

STATE OF NEVADA       )  
                                  ) ss:  
COUNTY OF CLARK     )

I, MITCHELL DAVID STIPP, being first duly sworn, deposes and states:

1. I am the Defendant in the case of *Stipp v. Stipp*, case number D-08-389203-Z in the Eighth Judicial District Court, State of Nevada. I submit this affidavit in support of my "Supplement to Motion to Confirm Parties as Joint Physical Custodians and to Modify Timeshare Arrangement and Opposition to Countermotion to Set Aside August 7, 2009 Stipulation and Order Due to Defendant's Fraud Upon the Court, Grant Discovery, Partition Undisclosed Marital Assets, and for Sanctions" (the "Supplement").

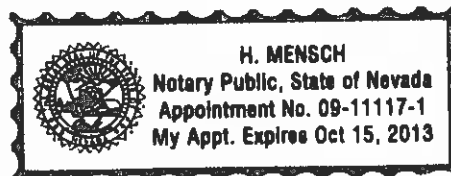
2. I have personal knowledge of the facts contained in the Supplement, I am competent to testify thereto, and the facts contained therein are true and accurate to the best of my knowledge and belief.

FURTHER, AFFIANT SAYETH NOT.



MITCHELL DAVID STIPP

Subscribed and sworn before me this 3rd day May, 2010.

  
NOTARY PUBLIC in and for  
the State of Nevada

## EXHIBIT B

**Melissa F. Kalodner, Psy.D., RPT-S, BCPC**  
**Clinical Child Psychologist and Registered Play Therapist - Supervisor**  
**2904 W. Horizon Ridge Parkway, Suite 100 - Henderson, NV 89052**  
**Office (702) 310-8787 - Fax (702) 310-8798**

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**December 4, 2009**

**Sent Via Facsimile. (702) 304-0275**

**Mitchell Stipp**  
**2055 Alcova Ridge Drive**  
**Las Vegas, Nevada 89135**

**RE. Mia Stipp**

**Dear Mr. Stipp,**

The purpose of this letter is to confirm facts surrounding the psychotherapy treatment of your daughter, Mia Stipp, and the subsequent statements made by Mia Stipp during my evaluation of her. I was contacted initially by Christina Stipp, Mia's biological mother, to conduct an evaluation and ongoing therapy for Mia. Christina reported that her main concerns for Mia were Mia's sensory problems related to her clothing and Mia's feelings related to the divorce of her parents. I then had a 90-minute initial evaluation therapy session with Christina Stipp.

Prior to treating Mia, I asked to meet with you to have a similar evaluation session. After meeting Mia's mother, father and step-mother, I scheduled an appointment for Mia at your request. I contacted Christina via telephone after our session to inform her that you consented to treatment and gave her the time and date of Mia's first therapy session. As I do for all of my child clients, I explained that I was to meet with Mia without the presence of either parent and the evaluation process would take approximately five sessions. During the telephone conversation, Christina informed me that she was displeased that I had set up a session for Mia with you. Christina asked that I reschedule the meeting for Mia at a time that was convenient for her, as she wanted to be there for the session as well as having you present so that we could all meet together. I communicated to Christina that it did not matter which parent scheduled Mia's first appointment and that I wanted to meet (at least initially) with Mia alone. I also felt

that given the fact that you and Christina are not on speaking terms, it may be upsetting for Mia to see the two of you together and may actually be detrimental to the therapeutic process. Christina insisted that she and you be present for the session and if I did not agree to this that she did not want to engage my services.

I informed you of my conversation with Christina. You indicated to me that you and your wife, Amy Stipp, wanted my assistance with Mia's clothing issues and to assess how Mia was coping with the divorce. As you know, I evaluated Mia for approximately five sessions of fifty minutes each. During these sessions, Mia made the following statements to me.

- (1) "I want to spend more time with my Dada but Mommy says we can't change the rules."
- (2) "I want to spend more time with my Dada but the judge won't let me."
- (3) "Amy was married to James."
- (4) "Momma doesn't like Amy."
- (5) "Momma says Amy is bad, but I like her."
- (5) Most recently, Mia has stated, "Momma doesn't say anything bad about Dada and Amy anymore."

I communicated the above statements made by Mia to you at the end of each session. Please note that Mia made these statements to me independently without any prompting. I did not discuss these statements with Mia. I simply reported them to you after the applicable session.

It has been a pleasure to treat Mia. If you have any other questions, please let me know. I can be reached at (702) 310-8787.

Sincerely,

*Melissa F. Kalodner, Psy.D., RPT-S, BCPC*

Melissa F. Kalodner, Psy.D., RPT-S, BCPC  
Clinical Child Psychologist  
Registered Play Therapist – Supervisor  
Board Certified Professional Counselor

**CHRISTINA CALDERON STIPP**

11757 Feinberg Place • Las Vegas, Nevada 89138 • c (702) 610-0032 • f (702) 240-4937  
ccstipp@gmail.com

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January 8, 2010

**VIA FACSIMILE & U.S. MAIL**

Dr. Melissa Kalodner  
2904 W. Horizon Ridge Pkwy., Suite 100  
Henderson, Nevada 89052

**RE: Mia Stipp**

Dear Dr. Kalodner:

Thank you for communicating with me, last week, and meeting with me, today, to discuss your treatment of Mia. This letter shall serve to confirm our conversations of Saturday, January 2, 2010, via telephone, and today, Friday, January 8, 2010, via in-person meeting at your office.

During our telephone conversation on January 2, 2010, you stated the following:

- 1) That Mitch Stipp drafted the letter, dated December 4, 2009, addressed from you to him (hereafter "Letter"), which, as I informed you, he submitted to Family Court on December 7, 2009, as "proof" of my "abuse" of Mia;
- 2) That he presented the Letter to you for your signature and that, after changing a few things, you signed it prior to leaving on vacation;
- 3) That you were sorry that you had signed the Letter;
- 4) That Mitch never advised you regarding how he was intending to use the Letter;
- 5) That you were glad that, notwithstanding the Letter, I had called you and agreed to meet with you regarding your treatment of Mia;
- 6) You offered to write a letter clarifying the Letter, including, putting it, or the contents thereof, into context;
- 7) That you absolutely do not believe that Mia had been or is being abused;
- 8) That you diagnosed Mia with a sensory processing disorder;
- 9) That Mitch believes Mia to be suffering from obsessive compulsive disorder ("OCD"), but that you do not believe that to be the case;
- 10) You referred Mia to a pediatric occupational therapist named Dr. Tania Stegen-Hanson for evaluation and treatment of her sensory processing disorder sometime in November 2009;
- 11) We discussed my reading of the book, entitled "The Out-of-Sync Child," recommended to me by Dr. Stegen-Hanson, and my desire to learn more about Mia's treatment with you; and
- 12) You advised me that, unbeknownst to me beforehand, you had just seen Mia for treatment on December 31, 2009.

Today, we met at your office. Though you inadvertently forgot to bring the treatment records I had previously requested with you, you stated that you would fax them to me by Tuesday, January 12, 2010, and you proceeded to graciously go over your past treatment of Mia with me. From the appointment records before you, and from your own recollection of events, you stated, among other things, the following:

- 1) That you have seen Mia approximately 14 times from September 9, 2009, until today, when you had Mia scheduled, unbeknownst to me, for the 15th treatment at 1:00 p.m. Your exact dates of treatment of Mia are: 9/4/09 (my consultation with you), 9/7/09 (your consultation with Mitch and Amy), 9/11/09, 9/19/09, 9/26/09, 10/10/09, 10/24/09 (phone session with Mitch), 10/30/09, 11/14/09, 11/21/09, 12/3/09, 12/19/09, 12/30/09 (session with Mitch and Amy), 12/31/09, and 1/8/10;
- 2) That the focus of all of your treatment sessions of Mia has been Mia's sensory issues, specifically her adverse reactions to clothing and seatbelts;
- 3) That Mitch never discussed with you any issue relating to Mia and any "anger" she displays when with him;
- 4) That Mitch never informed you of any "meltdowns," "outbursts" or "crying fits" by Mia;
- 5) That Mitch never discussed with you any allegation of "abuse" committed by anyone against Mia;
- 6) That you do not believe that Mia has been or is being abused, and that you would have no problem committing that belief to writing;
- 7) That had you believed that Mia was or is being abused, either emotionally or otherwise, you would have reported the abuse to Child Protective Services per your ethical obligations;
- 8) That throughout your treatment of Mia you engaged in a behavioral reward system including, among other things, prizes from a "treasure chest" for positive behavior like wearing her seatbelt cooperatively and lessening the time of clothing stretching from 30 to 20 seconds per stretch;
- 9) That Mitch presented a copy of the December 8, 2009 Minute Order in our custody case to you as justification for your continued treatment of Mia without my consent or involvement;
- 10) That though you claim to have my written consent to treat Mia, which I gave you on September 4, 2009, when we initially met, your December 4, 2009 letter documents my lack of continued consent for you to treat Mia following our December 9, 2009 telephone conversation;
- 11) That Mitch misrepresented to you that I did not want to be involved in Mia's treatment;
- 12) That you did not know that Mitch never informed me of your treatment of Mia until only recently;
- 13) That Mitch never told you that he and I had jointly agreed to have, and were, in fact, having Mia treated by Dr. Joel Mishalow during some of the same time period that you were treating Mia under Mitch's direction;
- 14) That had you known that Dr. Mishalow was also seeing Mia, you would not have proceeded to treat Mia given professional ethical constraints prohibiting psychologists from treating individuals who are under the care of another psychologist;

- 15) That the Minute Order of the court authorizing simultaneous treatment of Mia by different psychologists conflicts with current ethical guidelines applicable to psychologists;
- 16) That having Mia seen by multiple psychologists may negatively affect Mia given the potential of contradictory or conflicting treatment by different providers;
- 17) That Mitch misrepresented to you that the first time he heard about Dr. Mishalow was at the last hearing in our case; and
- 18) That Mitch misrepresented to you that I had been seeking treatment of Mia with Dr. Mishalow without Mitch's knowledge, consent or involvement.

At the conclusion of our meeting today, I asked you if I could be included in any of your future treatment of Mia. You responded by saying that you had decided that today would be your last session with Mia. You said that you based this decision on the fact that you felt manipulated by Mitch, and felt that you lacked trust in him given the misrepresentations of fact he made to you, especially with respect to Mia's simultaneous treatment with Dr. Mishalow.

In any event, you stated that you did not think Mia needed any further treatment other than occupational therapy and expressed your approval of my efforts to continue to jointly seek occupational therapy of Mia with Dr. Stegen-Hanson. As I informed you today, at my request, Mitch and Amy joined me on January 6, 2010, for Mia's first therapy session with Dr. Stegen-Hanson. Mia is scheduled to be treated by Dr. Stegen-Hanson on a weekly basis for the next three months.

Please advise, at your earliest convenience, if you disagree with my recollection of our conversations as set forth above.

Sincerely,

*Christina Calderon Stipp*  
Christina Calderon Stipp

cc: Donn Prokopius



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**Client, Mia Stipp****Date, 9-4-2009****Time, 2:30pm – 3:43pm****Duration, 1 hour, 13 minutes****Code, 90801**

Today is the first meeting with Christina Stipp, regarding her daughter, Mia Stipp. Office policies, limits of confidentiality, fees and HIPAA were discussed. Christina is the mother of five-year-old, Mia. Mia is reported to have difficulties related to clothing issues (wanting clothes to be several sizes too big) as well as becoming defiant when she is told that she has to wear her clothes, specifically her uniform for school.

Christina spent most of the session discussing in great detail the history of her relationship with her ex-husband, Mitchell Stipp. Even though I tried on four to five occasions to have Christina focus back to the task at hand, which was for me to listen to the behavioral problems she was having with her daughter, Christina continued to cry through the session, focusing on the loss of her husband through divorce.

At the end of the session, Christina told me that her family does not have any history of mental illness but her ex-husband has a history of OCD. Review of fees was discussed and Christina said that she could not afford my full fee. We discussed options and agreed upon a reduction of \$50 per session so that her daughter could be treated.

Plan. I will contact Mitchell to set up an appointment for intake with him as well. Then I will begin seeing Mia on, most likely, a weekly basis to rule out an OCD problem with clothing, while providing cognitive behavioral play therapy.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor**9-4-09**Date**

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**Client, Mia Stipp****Date, 9-9-2009****Time, 1.30pm – 2.20pm****Duration, 50 minutes****Code, 90801**

Today is the first meeting with Mitchell and Amy Stipp, Mia's biological father and step-mother. Office policies, limits of confidentiality, fees and HIPAA were discussed. Mia is reported to have difficulties related to clothing issues (wanting clothes to be several sizes too big) as well as becoming defiant when she is told that she has to wear her clothes, specifically her uniform for school. Also, Mitchell needs to stretch Mia's clothing for her, stretching each arm of her clothing. Mia reportedly does not like to wear underwear either. Mitchell is also concerned that Mia may be having difficulties related to the divorce between him and Mia's mother.

Mitchell currently has Mia 30% of the time. He reported that he has a history of OCD when he was a child and is very concerned that Mia has OCD as well.

Plan. I will call Christina to let her know that I spoke with Mitchell and that Mia's first therapy session is set for Friday, September 11<sup>th</sup> at 5.30pm. Then I will begin seeing Mia on, most likely, a weekly basis for individual therapy to rule out an OCD problem with clothing, while providing cognitive behavioral therapy (CBT).

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor**9/9/9**Date**

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**Client: Mia Stipp****Date: 9-11-2009****Time: 11:30am – 11:40am****Duration: 10 minutes****Code: Phone call**

Called Christina Stipp to let her know that I spoke and met with Mitchell and Amy Stipp and that individual therapy will begin today at 5:30pm. Also discussed my fee and asked Christina to provide some proof that she could not afford my full fee. She stated that she would not provide such information, so I told her that the fee would not be reduced.

Ms. Christina Stipp also insisted that I do therapy her way, which was for her to set up each session and that it was my duty to meet with her and Mitchell before every session, then she wanted to be present in the room with Mia during the session, and to then work on parenting strategies with her and Mitch (without Amy there) after each session. I told Christina that because she and her ex-husband were not communicating in person, and only through e-mails, that I believed it could be detrimental for Mia to have both parents present for sessions, at least in the beginning, and that it was my policy to meet with the parent that brings the child for the first 5-10 minutes of the session, then to meet with the child. Mia is to be seen today at 5:30pm.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor****Date**

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**Client:** Mia Stipp**Date:** 9-11-2009**Time:** 5:30pm – 6:20pm**Duration:** 50 minutes**Code:** 90806

Today was the first session that I met with Mia Stipp. She was brought in by her father and step-mother. Mia presented as a pleasant child who readily came into the playroom. Play was developmentally appropriate. Established trust and rapport with ease.

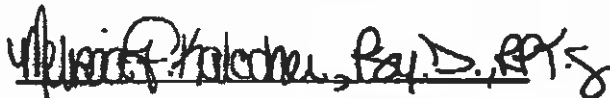
Mia did make comments, such as,

"Mommy doesn't like Amy."

"Amy was married to James."

Mia stated that her mother told her about James (who I later found out was Amy's first husband) and that her mother reportedly told her that this is why Amy is bad.

Plan. Continue meeting with Mia on a weekly basis for play therapy to address behavioral concerns. Next session is scheduled for 9-19 at 2:30pm.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor****Date**

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**Melissa F. Kalodner, Psy.D., RPT-S**

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**Client:** Mia Stipp

**Date:** 9-19-2009

**Time:** 2.30pm – 3.25pm

**Duration:** 55 minutes

**Code:** 90806

Today is the second session that I met with Mia. I spent the first few minutes of the session talking to Mitchell while Amy and Mia played together. I informed Mitchell of the comments that Mia made, such as "Mommy doesn't like Amy" and "Amy was married to James." I then met with Mia and told Mitchell I would inform him of any other statements made by Mia.

Mia presented again in a wonderful mood. She had difficulties related to wearing her seatbelt in the car this week, telling her father that the seatbelt was too tight. Mia and I worked on cognitive behavioral strategies to deal with Mia's feelings that the seatbelt was too tight as well as her clothing. Mia has taken a real interest in my treasure box, where she can pick one treat from the box at the end of each session if she does well during our play therapy session. As an incentive, Mia will earn extra treats from my treasure box if she wears her seatbelt correctly. We also discussed the safety of seatbelts.

Mia again reported comments that her mother made to her, such as "I want to spend more time with Dada but the judge won't let me." When I asked Mia about the judge, she reported that her mother told her about the judge.

Plan: Mia will earn extra treats from my treasure box upon wearing her seatbelt correctly. I encouraged Mitchell to reward Mia for this behavior at home as well. Next session is set for 9-26 at 2.30pm.



Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor

9-19-09

Date

9/21/09

One of the most common sensory disorders is **Tactile Defensiveness**. With this condition, a child is over or "*hyper*" sensitive to different types of touch. *Light touch* is one of the most upsetting types of touch to a child with SI dysfunction. Depending on the intensity of their dysfunction, they may become anywhere from mildly annoyed to completely freaked out by having someone lightly touch them. A gentle kiss on the cheek may feel like they are having coarse sandpaper rubbed on their face. They also may dislike feeling sand, grass or dirt on their skin. Getting dressed may be a struggle as different clothing textures, tags and seams may cause them great discomfort.

Often children with Tactile Defensiveness or touch hypersensitivity will avoid, become fearful of, or are irritated by:

- The wind blowing on bare skin
- Light touch
- Vibrating toys
- Barefoot touching of carpet, sand and/or grass
- Clothing textures
- Tags and seams on clothing
- Touching of "messy" things
- Changes in temperature

On the other side of the spectrum is a child with **Tactile Undersensitivity** or "*Hyposensitivity*". A tactile undersensitive child need a lot of input to get the touch information he or she needs. They will often seek out tactile input on their own in sometimes unsafe ways.

A child who is undersensitive to touch may have these difficulties:

- *Emotional and social* - Craves touch to the extent that friends, family, and even strangers become annoyed and upset. This could be the baby who constantly needs to be held, or the toddler who is clingy, craving continual physical contact.
- *Sensory exploration* - Makes excessive physical contact with people and objects. Touching other children too forcefully or inappropriately (such as biting or hitting).
- *Motor* - To get more tactile sensory information, he may need to use more of his skin surface to feel he's made contact with an object.
- *Grooming and dressing* - May choose clothing that is, in your opinion, unacceptably tight or loose. He may brush his teeth so hard that he injures his gums.

If you child shows signs of Tactile Defensiveness or Undersensitivity, it's important to get a proper screening by an Occupational Therapist, pediatrician or other licensed professional. This sensory assessment will help you in seeking out the proper course of treatment and therapy.

Visit [<http://www.SensorySmartKid.com>] for more information and support regarding Sensory Integration, PDD and other Autism Spectrum Disorders.

Article Source: [http://EzineArticles.com/?expert=Deborah Woodward](http://EzineArticles.com/?expert=Deborah_Woodward)

9/21/09

**TACTILE FUNCTIONING (SOMATOSENSORY)**

"The sense of touch is critical in helping us function in the environment on a daily basis" (Ayres, 1986). Constant tactile stimulation is necessary for all individuals, it has the ability to keep us organized and functioning (Kranowitz, 1998). Through sensory receiving cells (receptors) we feel sensations of pressure, vibration, movement, temperature and pain (Yack et al, 1998). This system provides information to aid in visual processing, motor planning, body awareness, cognitive learning, emotional security and social skills (Kranowitz, 1998). There are two components to the tactile system:

A) the protective (defensive/ uh oh! System) is a more primitive component that alerts us when something potentially dangerous is touching our bodies. The body reacts against the environment to protect itself from being harmed by evoking a fight or flight response while at other times will simply alert the nervous system (Kranowitz, 1998; Yack et al, 1998). B) The discriminative system (Aha!) is more advanced and provides us with details about touch (e.g. when we are touching something or something is touching us, where the touch is, pressure of the touch and different attributes of the object touching us) (Kranowitz, 1998; Yack et al, 1998). Yacks and others (1998) note that a successful tactile system depends on a balance between both the protective and discriminative systems. When this system is not balanced tactile defensiveness or under-responsive tactile discrimination results.

Poor tactile discrimination is a result of an immature ability to discriminate between tactile experiences and remembering past experiences. This child will mostly likely have fine motor problems, resistance to exploring the environment, and a problem using tools to perform 'everyday' tasks (Kranowitz, 1998). However the extent to which the object is aversive to or desired by the child is dependent on the child him/herself. Further the child may also be hyper and hypo sensitive to tactile sensations and as a result may shy away from soft touch but be unaware of broken bones.

**Tactile Defensiveness (hyper-sensitivity)**

Tactile sensations can create negative emotional reactions (Ayres, 1986) whereby the child may over-react to certain tactile experiences (e.g. touching squishy materials) (Wilbarger, 1997). Such an experience may trigger a 'fight or flight' response from the child.

**Behaviors We May See**

\* Taking off Clothing- the clothing may be uncomfortable therefore, provide soft loose clothes, provide calming stimulation and deep touch.

**Avoidance of Handling Sensory Material**

This is a common form of tactile defensiveness where the temperature and consistency of materials may make a difference in how well the object is tolerated. As a result the instructor should find different ways to introduce new tactile experiences (e.g. accidental touching) but also provide tactile experiences that the child does crave.

**Limited Use of Hands for Grasping**

This is also a common form of tactile defensiveness where the child exhibits a 'flight' response by not participating fully in the activity. However this may also be a sign of poor proprioceptive functioning (Yack et al, 1998). Things that we can do to promote tactile awareness are; include tactile activities during sessions so that the child must use his/her hands (e.g. open doors, pull chairs).

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**Client. Mia Stipp****Date. 9-26-2009****Time. 2.30pm – 3.20pm****Duration. 50 minutes****Code. 90806**

Today is the third session that I met with Mia. Continued talking with Mia about her clothing and seatbelt issues. Mia did earn extra treats from my treasure box for wearing her seatbelt correctly, but is still complaining that it is too tight.

I would like the opportunity to discuss Mia's case, without using her name and changing her identifying data, with Dr. Julie Beasley, during a phone consultation. Mitchell agreed.

Plan. Mia will earn extra treats from my treasure box upon wearing her seatbelt correctly, as well as her clothing. I encouraged Mitchell to reward Mia for this behavior at home as well. I will speak with a colleague regarding Mia's case.

Next session with Mia is set for 10-10 at 4.30pm. I am meeting with Mitchell and Amy to discuss Mia's progress 9-29-09 at 2.30pm.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor****Date**



**Melissa F. Kalodner, Psy.D., RPT-S**

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**Client, Mia Stipp**

**Date, 9-26-2009**

**Code, Phone consultation with Dr. Julie Beasley**

Phone call to Dr. Julie Beasley, child neuropsychologist, to consult this case with her. I am concerned that we are not dealing with OCD at this time, but a sensory processing issue. Dr. Beasley agreed and felt that a referral to the Achievement Therapy Center for occupational therapy may be helpful. I will pass this information on to Mitchell during our next session.

Melissa F. Kalodner, Psy.D., RPT-S

**Melissa F. Kalodner, Psy.D., RPT-S**

**Clinical Child Psychologist**

**Registered Play Therapist – Supervisor**

9-26-09

**Date**

**Melissa F. Kalodner, Psy.D., RPT-S**

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**Client. Mia Stipp**

**Date. 09-29-2009**

**Time. 2.30pm – 3.20pm**

**Duration. 50 minutes**

**Code. 90846**

Met with Mia's father and step-mother today to review Mia's progress in treatment. Discussed behavioral techniques to assist with clothing issues. I discussed my consultation with Dr. Julie Beasley regarding Mia's issues. I do not believe that this is OCD at this time, but a possible sensory integration/processing disorder that needs to be further evaluated by an occupational therapist. I gave them the name of Dr. Tonia Stegan-Hansen at Achievement Therapy Center as a referral.

Melissa F. Kalodner, Psy.D., RPT-S

Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor

9-29-09

Date

**Melissa F. Kalodner, Psy.D., RPT-S**

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**Client:** Mia Stipp

**Date:** 10-10-2009

**Time:** 4.30pm – 5.20pm

**Duration:** 50 minutes

**Code:** 90806

Continued talking with Mia about her clothing and seatbelt issues. Mia did earn extra treats from my treasure box for wearing her seatbelt correctly, but is still complaining that it is too tight. Mia made statements (without any prompting) such as "I want to spend more time with my Dada but Mommy says we can't change the rules." And "Mommy doesn't like Amy, but I like Amy" and "Momma says Amy is bad, but I like her."

**Plan:** Mia will earn extra treats from my treasure box upon wearing her seatbelt correctly, as well as her clothing. I encouraged Mitchell to reward Mia for this behavior at home as well.

Next session is set for 10-24 at 9.30am.

Melissa F. Kalodner, Psy.D., RPT-S

Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor

10-10-09

Date

**Melissa F. Kalodner, Psy.D., RPT-S, BCPC**

**Clinical Child Psychologist and Registered Play Therapist – Supervisor**

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**Client:** Mia Stipp

**Date:** 10-24-2009

**Time:** 9.30am – 10.00am

**Code:** phone call with Mitchell

Session was set for in the office today at 9.30am but Mia has the H1N1 flu and the family needs to stay with her in the home. So Mitchell and I decided to have a phone session regarding my findings as they relate to Mia. I discussed my clinical findings that I do not feel as if Mia has obsessive-compulsive disorder but that there may be a sensory processing disorder. Mitchell is to contact the Achievement Therapy Center for an occupational assessment in November.

Next session is set for 10-30 at 6.30pm.



Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor



Date

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**Client. Mia Stipp****Date. 10-30-2009****Time. 6.30pm – 7.20pm****Duration. 50 minutes****Code. 90806**

Mitchell and Amy Stipp brought Mia for her session today. Mia continues to present as a pleasant young girl who is having issues related to the fact that she reports that she loves her step-mother, Amy, but her mother gets mad at her for feeling that way, as well as clothing concerns. I continued to provide therapy to Mia about these issues, stating that she has the ability to love anyone she wants and that it is OK to talk about these feelings with me, as this is a safe place to talk.

Mitchell asked me if I have had any contact with Christina, to which I answered "no." He stated that Christina is seeking the advice of Dr. Mishilow in this case. I asked him to keep me informed.

Next individual session for Mia is set for 11-14-09 at 2.30pm.

Melissa F. Kalodner, Psy.D., RPT-S

Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor

10-30-09

Date

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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**Client. Mia Stipp****Date. 11-14-2009****Time. 2.30pm – 3.20pm****Duration. 50 minutes****Code. 90806**

Continued individual play therapy with Mia today. We continue working on issues related to her parents' divorce and clothing issues. We are working on limiting the duration of the stretching of the clothing. Mia stated today.

- (1) "I want to spend more time with my Dada but Mommy says we can't change the rules."
- (2) "I want to spend more time with my Dada but the judge won't let me."

Mitchell and Amy report that Mia continues to improve with treatment.

Next individual session for Mia is set for 11-21-09 at 3.30pm.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor**11-14-09**Date**


**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 - Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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**Client: Mia Stipp****Date: 11-21-2009****Time: 3.30pm – 4.20pm****Duration: 50 minutes****Code: 90806**

Continued individual play therapy with Mia today. We continue working on issues related to her parents' divorce and clothing issues. We are working on limiting the duration of the stretching of the clothing. Appointment has been made and kept with occupational therapist. Report will follow.

Next individual session for Mia is set for 12-03-09 at 12.30pm.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor****Date**

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

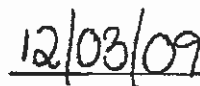
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**Client: Mia Stipp****Date: 12-03-2009****Time: 12.30pm – 1.20pm****Duration: 50 minutes****Code: 90806**

Met with Mitchell during the first half of the session while Amy played with Mia in the playroom. Mitchell would like me to write a letter regarding the statements Mia has made regarding Amy, the judge and her mother. I will type up a letter regarding the facts and only the facts, with no opinion whatsoever to the facts, as I clarified again that I was not appointed by the court nor am I a custody evaluator.

The second half of the session was spent with Mia. Mia began the session by telling me that "Momma doesn't say anything bad about Dada and Amy anymore." I asked Mia how she felt about this and she stated "It feels great. Now I can love everybody and nobody gets mad."

Next individual session for Mia is set for 12-19-09 at 2.30pm.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor****Date**



**Melissa F. Kalodner, Psy.D., RPT-S, BCPC**

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**December 4, 2009**

**Sent Via Facsimile. (702) 304-0275**

**Mitchell Stipp**

**2055 Alcova Ridge Drive**

**Las Vegas, Nevada 89135**

**RE: Mia Stipp**

**Dear Mr. Stipp,**

The purpose of this letter is to confirm facts surrounding the psychotherapy treatment of your daughter, Mia Stipp, and the subsequent statements made by Mia Stipp during my evaluation of her. I was contacted initially by Christina Stipp, Mia's biological mother, to conduct an evaluation and ongoing therapy for Mia. Christina reported that her main concerns for Mia were Mia's sensory problems related to her clothing and Mia's feelings related to the divorce of her parents. I then had a 90-minute initial evaluation therapy session with Christina Stipp.

Prior to treating Mia, I asked to meet with you to have a similar evaluation session. After meeting Mia's mother, father and step-mother, I scheduled an appointment for Mia at your request. I contacted Christina via telephone after our session to inform her that you consented to treatment and gave her the time and date of Mia's first therapy session. As I do for all of my child clients, I explained that I was to meet with Mia without the presence of either parent and the evaluation process would take approximately five sessions. During the telephone conversation, Christina informed me that she was displeased that I had set up a session for Mia with you. Christina asked that I reschedule the meeting for Mia at a time that was convenient for her, as she wanted to be there for the session as well as having you present so that we could all meet together. I communicated to Christina that it did not matter which parent scheduled Mia's first appointment and that I wanted to meet (at least initially) with Mia alone. I also felt

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that given the fact that you and Christina are not on speaking terms, it may be upsetting for Mia to see the two of you together and may actually be detrimental to the therapeutic process. Christina insisted that she and you be present for the session and if I did not agree to this that she did not want to engage my services.

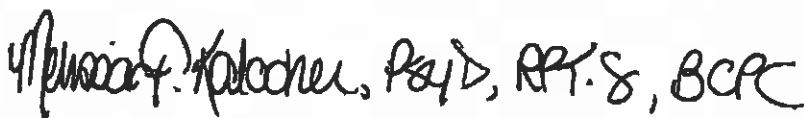
I informed you of my conversation with Christina. You indicated to me that you and your wife, Amy Stipp, wanted my assistance with Mia's clothing issues and to assess how Mia was coping with the divorce. As you know, I evaluated Mia for approximately five sessions of fifty minutes each. During these sessions, Mia made the following statements to me.

- (1) "I want to spend more time with my Dada but Mommy says we can't change the rules."
- (2) "I want to spend more time with my Dada but the judge won't let me."
- (3) "Amy was married to James."
- (4) "Momma doesn't like Amy."
- (5) "Momma says Amy is bad, but I like her."
- (5) Most recently, Mia has stated, "Momma doesn't say anything bad about Dada and Amy anymore."

I communicated the above statements made by Mia to you at the end of each session. Please note that Mia made these statements to me independently without any prompting. I did not discuss these statements with Mia. I simply reported them to you after the applicable session.

It has been a pleasure to treat Mia. If you have any other questions, please let me know. I can be reached at (702) 310-8787.

Sincerely,



Melissa F. Kalodner, Psy.D., RPT-S, BCPC  
Clinical Child Psychologist  
Registered Play Therapist – Supervisor  
Board Certified Professional Counselor

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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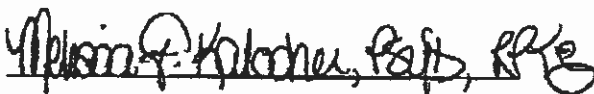
**Client: Mia Stipp****Date: 12-19-2009****Time: 2.30pm – 3.20pm****Duration: 50 minutes****Code: 90806**

Met with Mitchell for the first 10 minutes of the session. He reported that he presented my letter in court during a custody evaluation. I reiterated that I was not appointed by the court nor am I a custody evaluator. Mitchell wants to continue therapy for Mia, as she gets along well with me, enjoys coming, and feels safe here.

Mia continues to present in a pleasant mood. She is very interested in earning a "big prize" from my treasure chest – so we set up a reward system so she can earn it next session if she continues to wear her seatbelt properly and talk about her feelings.

Next session with Mitchell and Amy is set for 12-30 at 10.30am.

Next individual session for Mia is set for 12-31-09 at 5.30pm.



Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor

12-19-09

Date

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 - Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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**Client: Mia Stipp****Date: 12-30-2009****Time: 10.30am – 11.20am****Duration: 50 minutes****Code: 90846**

Met with Mitchell and Amy Stipp today. Reviewed occupational therapist's report, which states that Mia does have a sensory processing disorder. I informed them that Christina has sent me letters regarding wanting my notes on Mia. I have left messages for Christina and will set up a session with Christina to discuss Mia's progress.

Mia will be seen again 12-31 at 5.30pm.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor****Date**

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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**Client: Mia Stipp****Date: 12-31-2009****Time: 5.30am – 6.20am****Duration: 50 minutes****Code: 90806**

Had a wonderful session with Mia today. Continue working on clothing issues. Mia has agreed to allow stretching of each arm of her clothing to go from 30 seconds to 20 seconds. We practiced counting to 30, then 25, then 20.

I told Mia today that I would be meeting with her mother soon and I was excited about this. Mia began looking very anxious and asked that I not talk to her mom because "My mom is mean. She puts me in time-out all the time." I reassured Mia that she has nothing to worry about.

Mia will be seen again 1-08-2010 at 1pm.



Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor

12/31/09  
Date

**Melissa F. Kalodner, Psy.D., RPT-S**

**Clinical Child Psychologist and Registered Play Therapist – Supervisor**

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**Client: Mia Stipp**

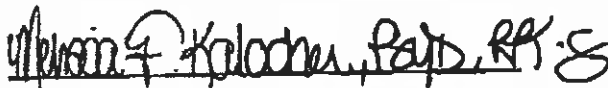
**Date: 1-02-2010**

**Time: 11.45am – 11.55am**

**Duration: 10 minutes**

**Code: Phone call to Christina Stipp**

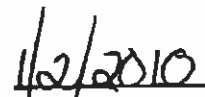
**Spoke with Christina Stipp today over the phone. She was upset over the letter that I had written and wanted to discuss the letter and Mia's therapy. I will be meeting with Christina Friday, January 8<sup>th</sup> at 11am.**



**Melissa F. Kalodner, Psy.D., RPT-S**

**Clinical Child Psychologist**

**Registered Play Therapist – Supervisor**

  
**Date**

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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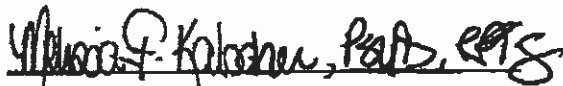
**Client: Mia Stipp****Date: 1-08-2010****Time: 11.15am – 12.35pm****Duration: 1 hour, twenty minutes****Code: 90846**

Met with Christina Stipp today. Christina took notes while we talked. I did not have my notes in front of me, but I went over the course of Mia's treatment since September. Christina let me know that she had been taking Mia to Dr. Mishulow but Dr. Mishulow was no longer involved in the case. She also stated that Mitchell's attorney had told her that Mitchell was not bringing Mia to therapy anymore.

The majority of the discussion from Christina centered on legal issues between her and her husband, not on Mia. Christina made it quite clear that she did not give her consent for me to treat Mia anymore. I told Christina that I would no longer treat Mia due to the litigious nature of the case and my inability at this time to help Mia with her issues due to her mother's lack of consent and legal concerns.

I did not charge Christina for the session today.

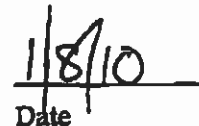
Mia will have a final termination session today at 1pm.



Melissa F. Kalodner, Psy.D., RPT-S

Clinical Child Psychologist

Registered Play Therapist – Supervisor



Date

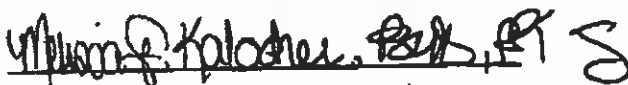
**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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**Client. Mia Stipp****Date. 1-08-2010****Time. 1pm – 2pm****Duration. 1 hour****Code. 90806/90846**

Mitchell and Amy Stipp brought Mia to her session today. I met with Mitchell alone while Amy, Mia and Ethan played in the playroom. I explained to Mitchell that I had met with Christina earlier in the day and that she did not give her consent to treat Mia anymore and that I was no longer wanting to be involved in this case, as it appears to now not be a child case, but a legal case. I do not get involved in court cases and stated that I could no longer treat Mia.

Mitchell stated that he understood and we agreed to have Mia participate in weekly occupational therapy for the time being. Completed termination with Mia.

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor****Date**



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January 12, 2010

Sent Via Facsimile. (702) 240-4937

Dear Christina,

Records on Mia Stipp will be sent by the 15<sup>th</sup> of this month. Thank you for your patience and understanding.

Sincerely,



Melissa F. Kalodner, Psy.D., RPT-S, BCPC  
Clinical Child Psychologist  
Registered Play Therapist – Supervisor  
Board Certified Professional Counselor