

# **REPLY EXHIBIT “E”**



CLERK OF THE COURT

1 SUPP

2 RADFORD J. SMITH, CHARTERED

3 RADFORD J. SMITH, ESQ.

4 Nevada Bar No. 002791

5 64 N. Pecos Road, Suite 700

6 Henderson, Nevada 89074

7 T: (702) 990-6448

8 F: (702) 990-6456

9 Email: rsmith@radfordsmith.com

10 Attorneys for Defendant

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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

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 DATED this 3rd day of May, 2010.

4 RADFORD J. SMITH, CHARTERED

5   
6 RADFORD J. SMITH, ESQ.

7 Nevada Bar No. 002791

8 64 N. Pecos Road, Suite 700

9 Henderson, Nevada 89074

(702) 990-6448

10 Attorneys for Defendant

11 I.

12 INTRODUCTION

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

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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").  
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20 Shortly after the entry of the SAO, the parties' daughter Mia began suffering the ill effects of a  
21 constant barrage of disparagement about Mitchell and his wife, Amy Stipp ("Amy"), from Christina.  
22 Mia's problems became so severe that the parties placed her into psychological counseling. This Court  
23 has never adjudicated the issue of Christina's disparagement, and her marginalization of Mitchell's  
24 parental role with the children. While Mitchell had hoped that entering into a resolution with Christina  
25 would establish common ground upon which the parties could move forward with their respective lives  
26 as co-parents of their minor children, Christina embarked on a campaign of harassment with the idea  
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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  
11 1. There are no contraindications that exist that would preclude Mitchell from having  
12 more physical time with the children.

13 a. Mitchell does not abuse alcohol.

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 b. Mitchell's driving record is not an issue.

23 Dr. Paglini concluded that Mitchell is aware of Christina's concern about his driving record and  
24 that Mitchell obviously does not want to place his children in jeopardy. While Dr. Paglini cautioned  
25 Mitchell on this issue, he believes Mitchell will engage in appropriate conduct.  
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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                   **d. Dr. Paglini's only reservation about Mitchell's request for additional time fails  
12 to consider the actual circumstances under which he engaged Dr. Kalodner and  
13 Dr. Stegen-Hansen.**

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

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

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

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

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.

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17 It is significant to note that Christina does admit to Dr. Paglini as indicated in his report to  
18 making derogatory comments about Amy to Mitchell (just not to Mia). Christina further admits to  
19 providing information to Mia's school administrator regarding her negative perceptions of Mitchell.  
20 The Court is aware of these circumstances as they have been described in detail in Mitchell's October  
21 29, 2009 motion.  
22

23 **b. The evidence is not merely cumulative or impeaching.**

24 Mitchell has *never* alleged in any pleadings or at any hearing prior to his October 29, 2009  
25 motion that Christina has emotionally abused Mia or that Mia has been impacted at all by negative  
26 statements Christina has made to Mia. However, Mitchell admits that he has raised the issue of parental  
27 alienation with the Court but *only* in his opposition and response filed on June 3, 2009 to Christina's  
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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.  
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1 Christina communicated to Dr. Paglini that she has been in therapy with Ann Nichols for three  
2 (3) years and *continues to receive therapy*. Dr. Paglini interviewed Ms. Nichols for purposes of the  
3 evaluation. While Ms. Nichols has indicated that Christina has made significant progress over the last  
4 several months during the pendency of the current litigation, it does not guarantee that Christina's  
5 emotional problems will not return. Dr. Paglini makes it very clear in his report that if the parties' issues  
6 remain unresolved, it is *likely* that the children *will be emotionally affected* in the future. Ordering an  
7 evidentiary hearing will provide the parties an opportunity to resolve their respective issues once and for  
8 all. Without an evidentiary hearing, there will be no resolution and there is likely to be additional  
9 litigation on the matters.

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

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

22  
23 **a. The Parties already have joint physical custody of the children.**

24 Under *Rivero*, the terms of the parties' custody arrangement will control except when the  
25 parties move the Court to modify the custody arrangement. Mitchell has not asked the Court to modify  
26 the joint physical custody arrangement. His motion requests the Court to provide him equal time with  
27 the children consistent with the stated intentions of the parties in the MSA and SAO.  
28

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  
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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  
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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.

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

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

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

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

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

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 ...

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.

12       Dr. Paglini determined that *Mitchell is a fit parent*: he does not exhibit any significant parenting  
13       deficits, he has positive qualities, and possesses numerous resiliency factors. Dr. Paglini also concludes  
14       that Mitchell provides excellent care toward the children and he is actively involved in the children's  
15       lives. The only issue of relevance to Dr. Paglini was Mitchell's decision to engage Dr. Kalodner and Dr.  
16       Stegen-Hansen without the consent of Christina which has been clearly addressed above. *None* of the  
17       issues raised by Christina in her pleadings about Mitchell's fitness as a parent (i.e., alcohol abuse and  
18       driving record) were determined to be valid issues by Dr. Paglini in his report. In short, Mitchell has  
19       done nothing wrong that would prevent the Court from providing him equal time with the children.  
20

21       Christina, on the other hand, has been *prone to relapses* with respect to her inability to deal with  
22       the parties' divorce and Mitchell's remarriage to Amy. Dr. Paglini clearly concluded in his report that  
23       this occurred after entry of the *SAO*. Mitchell had no other choice but to file his October 29, 2009  
24       motion. Dr. Paglini also concluded that this dynamic has affected the parties' ability to co-parent the  
25       children. Under these circumstances, it would be a substantial miscarriage of justice to deny Mitchell  
26       additional time with the children. Dr. Paglini even suggests timeshare plans that would be best for the  
27  
28

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 1. Grant Mitchell's request to file this supplement pursuant to EDCR 2.20(f).  
10  
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  
16 3. Grant Mitchell's request to be reimbursed \$16,250 for the costs of the child custody  
17 evaluation and \$5,000 for attorney's fees and costs for opposing Christina's motion for reconsideration  
18 heard by the Court on April 13, 2010.  
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

**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").

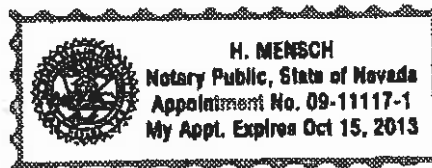
2. I have personal knowledge of the facts contained in the Supplement, I am competent to testify thereto, and the facts contained therein are true and accurate to the best of my knowledge and belief.

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) 310-8788**

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December 4, 2008

Sent Via Facsimile, (702) 304-0275

**Mitchell Stipp**  
**2055 Alcora 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) "Mommy doesn't like Amy."
- (5) "Mommy says Amy is bad, but I like her."
- (5) Most recently, Mia has stated, "Mommy 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 Peinberg Place • Las Vegas, Nevada 89158 • c (702) 510-0032 • 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 Michalow during some of the same time period that you were treating Mia under Mitch's direction;
- 14) That had you known that Dr. Michalow 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

**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**

---

**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**

**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**

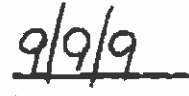
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**Client:** Mia Stipp**Date:** 9-9-2009**Time:** 1.30pm – 2.20pm**Duration:** 50 minutes**Code:** 90801

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****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: 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



**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:** 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

**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:** 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 your 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).

**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:** 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

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**

**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:** 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**

**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:** 09-28-2009

**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**

**Clinical Child Psychologist**

**Registered Play Therapist – Supervisor**

9-29-09

**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: 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 Army, but I like Army" and "Mommy says Army 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**  
**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:** 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

**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: 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. Mishlow 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**  
**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 Alcora 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.

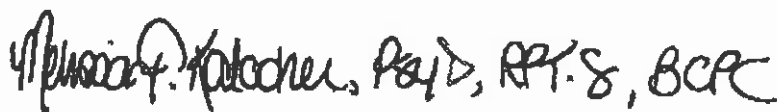
I informed you of my conversation with Christina. You indicated to me that you and your wife, Amy Stipp, wanted my assistance with Mia's clothing issues and to assess how Mia was coping with the divorce. As you know, I evaluated Mia for approximately five sessions of fifty minutes each. During these 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) 910-8787.

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) 310-8788**

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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

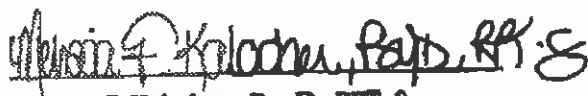
12/31/09  
Date

**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8788**

---

**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. Mishilow but Dr. Mishilow 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.

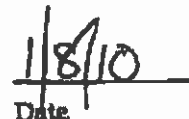
Mia will have a final termination session today at 1pm.



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

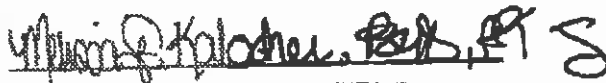
**Time:** 1pm - 2pm

**Duration:** 1 hour

**Code:** 90806/80846

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

**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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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

**REPLY**  
**EXHIBIT “F”**



CLERK OF THE COURT

1 **ORDR**  
2 RADFORD J. SMITH, CHARTERED  
3 RADFORD J. SMITH, ESQ.  
4 Nevada Bar No. 002791  
5 64 N. Pecos Road, Suite 700  
6 Henderson, Nevada 89074  
7 Office: (702) 990-6448  
8 Facsimile: (702) 990-6456  
9 rsmith@radfordsmith.com  
10 Attorney for Defendant, Mitchell Stipp

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

13 CHRISTINA STIPP,

14 Plaintiff,

15 v.

16 MITCHELL STIPP,

17 Defendant.

CASE NO.: D-08-389203-Z

DEPT NO.: O

FAMILY DIVISION

18 **ORDER FROM HEARING ON PLAINTIFF'S MOTION FOR RECONSIDERATION AND**  
19 **RELATED COUNTERMOTION**

20 DATE OF HEARING: April 13, 2010

21 TIME OF HEARING: 11:00 a.m.

22 This matter coming on for hearing on Plaintiff's MOTION TO REHEAR/RECONSIDER THE  
23 HEARING OF 12/8/09 AND/OR TO CLARIFY THE COURT'S RULINGS FROM THAT HEARING  
24 AND FOR PLAINTIFF'S ATTORNEYS FEES and Defendant's COUNTERMOTION FOR  
25 SANCTIONS UNDER EDCR 7.60; Plaintiff CHRISTINA STIPP ( "Christina"), being present and  
26 represented by DONN W. PROKOPIUS, ESQ., and Defendant, MITCHELL STIPP ( "Mitchell"), being  
27 present and represented by RADFORD J. SMITH, ESQ., of RADFORD J. SMITH, CHARTERED; the  
28



1 Court, having reviewed the pleadings on file, having heard the arguments of counsel, and being fully  
2 advised in the premises, and good cause appearing therefor, FINDS AND ORDERS AS FOLLOWS:

3 1. Plaintiff has moved for reconsideration of the court's order filed February 1, 2010,  
4 arising from the hearing of December 8, 2009. At the hearing of December 8, 2009, the court appointed  
5 Dr. Robert Paglini to perform an outsourced child custody assessment. The court shall not modify that  
6 order, or otherwise limit the scope of the analysis of Dr. Paglini. The court has the ability to discern the  
7 evidence or recommendations of Dr. Paglini that are relevant to the court's determinations of the  
8 pending motions. Defendant's Motion for Reconsideration is denied.  
9

10 3. The determination of evidence applicable to any request for additional visitation, or any  
11 request for change of custody is a legal matter that will be addressed by the court after the review of Dr.  
12 Paglini's report and recommendations.  
13

14 4. The court shall prohibit either party from having Mia treated by any psychologist until  
15 further order of the court. Mia may continue, however, to receive occupational therapy from Dr. Tania  
16 Stegen-Hansen and her staff.  
17

18 5. Defendant contends that the provisions in the court's February 1, 2010 order regarding  
19 the parties' ability to move outside the State of Nevada with the minor children vary from the parties'  
20 Marital Settlement Agreement dated February 20, 2008 ("MSA"). The court did not modify the MSA in  
21 that regard, and to the extent the February 1, 2010 order contains contrary provisions, the MSA shall  
22 control.  
23

24 6. The parties' conflicting requests for attorney's fees and sanctions shall be denied at this  
25 time. The court shall review each party's requests for attorney's fees and costs after its review of Dr.  
26 Paglini's report, or after any evidentiary hearing arising from such report.  
27  
28

IT IS SO ORDERED this 19 day of March, 2010.

**SALLY LOEHRER**, *for* **FRANK P. SULLIVAN**

Approved as to form and content:

**RADEFORD J. SMITH, ESQ.**  
Nevada State Bar No. 002791  
64 N. Pecos Road - Suite 700  
Henderson, Nevada 89074  
Attorneys for Defendant

33

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Joint Petition**

**COURT MINUTES**

May 06, 2010

D-08-389203-Z

In the Matter of the Joint Petition for Divorce of:  
Mitchell David Stipp and Christina Calderon Stipp, Petitioners.

May 06, 2010

2:00 PM

Return Hearing

Re: Outsource Custody  
Evaluation (Dr.  
Paglini)

HEARD BY: Sullivan, Frank P.

COURTROOM: Courtroom 05

COURT CLERK: Lori Parr

**PARTIES:**

Christina Stipp, Petitioner,  
present

Donn Prokopius, Attorney,  
present

Ethan Stipp, Subject Minor, not  
present

Mia Stipp, Subject Minor, not  
present

Mitchell Stipp, Petitioner,  
present

Radford Smith, Attorney,  
present

**JOURNAL ENTRIES**

- Court reviewed Dr. Paglini's Report.

Following argument, COURT ORDERED, it will review the Supplemental Pleadings filed by counsel, and will file a Written Decision.

UNDER ADVISEMENT.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

*Canceled: May 06, 2010 2:00 PM Evidentiary Hearing  
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated  
Courtroom 05  
Sullivan, Frank P.*

June 22, 2010 10:00 AM Motion  
Courtroom 05  
Sullivan, Frank P.

**REPLY  
EXHIBIT “C”**

  
CLERK OF THE COURT

**RPLY**

RADFORD J. SMITH, CHARTERED  
RADFORD J. SMITH, ESQ.  
Nevada Bar No. 002791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
T: (702) 990-6448  
F: (702) 990-6456  
Email: rsmith@radfordsmith.com  
Attorneys for Defendant

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTINA CALDERON STIPP,

Plaintiff,

v.

MITCHELL DAVID STIPP,

Defendant.

CASE NO.: D08-389203-Z

DEPT.: O

DATE OF HEARING: December 8, 2009

TIME OF HEARING: 10:00 a.m.

**REPLY TO OPPOSITION TO DEFENDANT'S MOTION TO CONFIRM PARTIES AS JOINT  
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**

COMES NOW, Defendant MITCHELL D. STIPP, by and through his attorney Radford J. Smith, Esq., and submits the following points and authorities in reply to Plaintiff CHRISTINA C. STIPP's opposition and in opposition to Plaintiff's counter motion, as described above and filed on November 30, 2009.

This reply and opposition is made and based upon the points and authorities attached hereto, the Affidavit of Defendant MITCHELL STIPP attached hereto as Exhibit "A" and evidence attached as

1 Exhibits hereto, the pleadings and papers on file in this action, and any oral argument or evidence  
2 adduced at the time of the hearing of this matter.

3 DATED this 7th day of December, 2009.

4 RADFORD J. SMITH, CHARTERED

5  9557  
6 RADFORD J. SMITH, ESQ.

7 Nevada Bar No. 002791

8 64 N. Pecos Road, Suite 700

9 Henderson, Nevada 89074

(702) 990-6448

10 Attorneys for Defendant

11 I.

12 INTRODUCTION

13  
14 Defendant Mitchell Stipp ("Mitchell") filed his Motion to Confirm Parties as Joint Physical  
15 Custodians and to Modify Timeshare Arrangement on October 29, 2009. Plaintiff Christina Calderon-  
16 Stipp ("Christina") filed her opposition and countermotion on November 30, 2009. Christina's  
17 opposition was due on November 25, 2009. Therefore, the opposition is untimely and should not be  
18 considered by the Court.  
19

20 Christina will likely argue for a continuance of the December 8, 2009 hearing because she has  
21 not had sufficient time to review and respond to Mitchell's reply and opposition because it was filed on  
22 the day before the hearing. Based on the timing of the filing of Christina's opposition and  
23 countermotion, Mitchell filed his reply and opposition at the earliest possible time prior to the hearing.  
24 In the event that the Court continues the hearing to provide Christina additional time to file appropriate  
25 pleadings, this Court should send this matter to assessment with a qualified psychologist. As it is  
26 Christina's failure to timely file her opposition, the Court could use the time of any delay to get to the  
27  
28

1 bottom of the child custody issues raised by both parties. Such an assessment is warranted in this case.  
2 As set forth in Mitchell's motion, Christina is emotionally abusing Mia Stipp ("Mia"), the parties' five  
3 (5) year old daughter.  
4

5 **II.**

6 **ARGUMENT**

7  
8 **1. Countermotion to Set Aside August 7, 2009 Stipulation and Order should be Denied;**  
9 **No Fraud has been Committed; and Child Assessment should be Ordered**

10 For the first time, Christina alleges in her opposition and countermotion that Mitchell is unfit.  
11 Christina alleges that Mitchell was arrested for and charged with driving under the influence of alcohol  
12 and that Mitchell has a bad driving record. Christina failed to comply with E.D.C.R. 5.11 prior to filing  
13 her countermotion.  
14

15 **(a) Mitchell's DUI arrest does not make him unfit.**

16 Mitchell was arrested on May 12, 2008 for misdemeanor driving under the influence of alcohol.  
17 At the time of Mitchell's arrest, Mitchell believed that he passed a field sobriety test but failed the  
18 preliminary breath test.<sup>1</sup> Mitchell consumed two (2) alcoholic beverages<sup>2</sup> while eating dinner at Del  
19 Frisco's with co-workers from his prior employer, PLISE. Mitchell was pulled over by the Metropolitan  
20 Police Department a few blocks from the restaurant because his vehicle had expired registration tags.  
21 Mitchell elected to provide a blood sample at the Clark County Detention Center. Mitchell was  
22 transported to the Clark County Detention Center, provided a blood sample, and was released a few  
23 hours later. Upon his release, Mitchell was provided a court date of August 12, 2008. Mitchell engaged  
24 Frank Cremen, Esq., to represent him. Around the first week of August of 2008, Mr. Cremen contacted  
25  
26

27 <sup>1</sup> The arresting officer informed Mitchell at the time of his arrest that he registered a preliminary breath test result of 0.09.  
28

<sup>2</sup> Mitchell weighs approximately 145 pounds and is 5 feet 8 inches tall.



1 Mitchell to inform him that the Clark County District Attorney's Office had not approved a criminal  
2 complaint against him. At that point, Mitchell also had not received any notice from the Nevada  
3 Department of Motor Vehicles (the "Nevada DMV") suspending his driver's license. Therefore,  
4 Mitchell believed he would not be prosecuted.  
5

6 Mr. Cremen contacted Mitchell sometime in December of 2008 to inform him that a criminal  
7 complaint had been filed against him on December 2, 2008 for misdemeanor driving under the influence  
8 of alcohol (NRS 484.379). An initial arraignment was scheduled for December 30, 2008. Mitchell did  
9 not attend. Mr. Cremen attended the arraignment and entered a plea of not guilty on Mitchell's behalf.  
10 Trial was scheduled for May 21, 2009. Some time before the trial date (but after Mitchell filed his  
11 January 8, 2008 opposition and counter-motion), Mr. Cremen contacted Mitchell to discuss the arrest  
12 report and laboratory results. Mr. Cremen informed Mitchell that the blood sample taken on the day of  
13 his arrest contained a concentration of alcohol of 0.117 grams per 100 milliliters of blood. Mr. Cremen  
14 negotiated a plea agreement, and Mitchell pled no contest (with adjudication to be withheld pending  
15 completion of DUI School and a victim impact panel) to reckless driving on May 27, 2009. Mitchell  
16 successfully completed the conditions to his plea arrangement. Accordingly, on August 26, 2009, the  
17 complaint was amended to reckless driving and the case was closed. At no time did the Nevada DMV  
18 suspend Mitchell's driving privileges.  
19  
20  
21

22 Christina argues in her opposition and counter-motion that Mitchell's failure to disclose the  
23 above-described matter amounts to fraud sufficient to set aside the parties' August 7, 2009 stipulation  
24 and order under Nev. R. Civ. P. 60(b) and re-institute the parties' original timeshare arrangement, is a  
25 violation of N.R.P.C. 3.3 and 8.4, justifies sanctions against Mitchell to reimburse Christina for more  
26 than \$100,000 in legal fees and costs incurred by her litigating the post-divorce custody matters, and  
27 requires this Court to issue non-descript orders to accommodate Christina's "safety concerns."  
28

1 Christina states in paragraph 17 of her affidavit that she learned of Mitchell's arrest only after  
2 entering into the August 7, 2009 stipulation and order. Mitchell believes Christina searched the public  
3 records for "dirt" only after receiving Mitchell's motion based on the November 24, 2009 date of the  
4 certified copy of the Disposition Notice and Judgment attached to her pleadings. Specifically, Christina  
5 recounts an event that occurred while driving with the children in her automobile in September of 2009  
6 when the children saw a police car driving with its lights and sirens activated. This event apparently  
7 prompted the children to tell Christina that Mitchell had been stopped by the police for speeding and that  
8 Mitchell received a ticket. With this information, Christina admits to searching the public records to  
9 "find out the truth about this violation[,] and low and behold she discovered that Mitchell was arrested  
10 in 2008 (after the parties divorced and several months before Christina instituted the post-divorce  
11 litigation ). Rather than communicate any concerns to Mitchell about this information, according to  
12 Christina's affidavit, she instead contacted the State Bar of Nevada to determine if Mitchell reported this  
13 matter as she alleges is required by S.C.R. 111(2)<sup>3</sup> and filed a bar complaint against Mitchell and his  
14 counsel for failing to disclose the matter to the Court during the pendency of the prior post-divorce  
15 proceedings. This conduct does not satisfy E.D.C.R. 5.11, seems inconsistent with a parent who is  
16 really concerned about the well-being of the children, and is really designed to punish Mitchell and his  
17 counsel for filing Mitchell's motion.  
18  
19  
20  
21

22 Since the parties' divorce through the date of filing Christina's December 17, 2008 motion,  
23 Christina never communicated to Mitchell that she had any concerns regarding his use of alcohol. The  
24 first time Mitchell became aware of Christina's concerns was in her motion; however, she never alleged  
25 that Mitchell was unfit (including through the period after the August 7, 2009 stipulation and order).  
26

---

27 <sup>3</sup> Mr. Cremen advised Mitchell that no report was required under S.C.R. 111(2) based on the amended complaint and his no  
28 contest plea to reckless driving.

1 What has changed? Nothing--- except that Mitchell filed a motion on October 29, 2009 alleging that  
2 Christina is emotionally abusing Mia. As a result, Christina now alleges that Mitchell is unfit. Given  
3 this allegation, Mitchell believes it is even more important for the Court to order an assessment of the  
4 children to determine if Mitchell's alleged alcoholism and apparent reckless driving really pose a "safety  
5 threat" as Christina contends in her countermotion and opposition. Mitchell is not asking the Court to  
6 simply "take his word for it" that he is a fit parent as Christina alleges. Mitchell believes the Court has  
7 no other choice but to order an assessment under the circumstances to get to the bottom of these  
8 allegations. As Christina puts it, Mitchell "opened the door" with respect to his conduct, and Christina  
9 should not oppose an order for such relief (although she does in her pleadings). It does not make any  
10 sense to allege that Mitchell is unfit and poses a safety threat to the children and oppose Mitchell's  
11 request for a child custody assessment.

12  
13 Neither Mitchell nor his counsel made any attempt to conceal Mitchell's arrest, charge or plea.<sup>4</sup>  
14  
15 All statements made by Mitchell and his counsel in filings with and at all hearings before the Court have  
16 been true and accurate with respect to Mitchell's use of alcohol. Christina actually cites specific  
17 statements of Mitchell in his January 8, 2009 opposition and countermotion as the primary support for  
18 her position that Mitchell and his counsel perpetrated a fraud on this Court which she emphasized:  
19

20  
21 Mitchell denies that he is an alcoholic or drinks too much alcohol. In fact,  
22 Mitchell now rarely consumes alcohol. In the unlikely event that  
23 Mitchell consumes alcohol, he does so responsibly and never during the  
24 days and times that Mitchell has visitation with the children.

25 These statements were true and accurate when Mitchell made them (and are true and accurate  
26 now). His arrest eight (8) months before Mitchell filed his January 8, 2009 opposition and  
27 countermotion do not make any of these statements false or misleading and certainly do not amount to  
28

---

<sup>4</sup> At the time Christina filed her initial motion in December of 2008, the arrest and charge was a matter of public record.

1 fraud on the Court. In fact, Mitchell's use of the word "now" makes it very clear that he acknowledges  
2 drinking more in the past. Regardless, at the time Mitchell was arrested, Mitchell's children were not  
3 present in the automobile. The arrest did not occur during any period of Mitchell's timeshare with the  
4 children. No property was damaged, and no one was injured. Mitchell has not been arrested for or  
5 charged with any alcohol related offenses since that time. Mitchell accepted complete responsibility for  
6 his actions, paid a fine of \$580 and learned a significant and important lesson from attending DUI  
7 School and a victim impact panel.  
8

9  
10 There is absolutely no legal basis to set aside the August 7, 2009 stipulation and order on the  
11 basis of fraud as Christina alleges. No fraud exists. Neither Mitchell nor his counsel had any legal or  
12 ethical obligation to communicate to Christina, her counsel, or the Court the facts of Mitchell's arrest,  
13 charge or plea. Mitchell's arrest, charge, and plea are not relevant to his fitness as a parent. Therefore,  
14 the Court should not punish Mitchell as Christina requests by taking time away from him with his  
15 children. Mitchell also should not have to pay as sanctions Christina's prior legal bills; he did not  
16 initiate the litigation in December of 2008, he had every right to oppose Christina's motion and file his  
17 own countermotion to obtain additional time with the children, and his actions were in good faith and  
18 did not violate any court or professional rules.  
19

20 **(b) Mitchell's driving record is irrelevant.**  
21

22 Christina provides in footnote 3 of her opposition and countermotion alleged "evidence" of  
23 Mitchell's reckless driving. She attaches as Exhibit 7 to her pleadings an underwriting review and  
24 vehicle damage report from State Farm Insurance regarding a single vehicle accident that occurred on  
25 November 7, 2006. Mitchell does not dispute that he was involved in an accident in November of 2006  
26 the specific circumstances of which are detailed in the insurance records. However, Mitchell denies the  
27 accident was caused by alcohol as Christina alleges, and Christina has not proffered any evidence to  
28

1 support her claim. Mitchell has also reviewed the traffic case records search attached as Exhibit 8 to  
2 Christina's pleadings and cannot determine on the basis of the review the specific charges (moving vs.  
3 non-moving violations) other than as identified on the report (which include license, insurance and  
4 registration citations), the specific circumstances of the citation, and/or the validity of the citation. This  
5 alleged "evidence" does not support Christina's reckless driving claims, is not relevant to Mitchell's  
6 fitness as a parent and certainly is not sufficient to justify a court order to address Christina's  
7 unsupported "safety concerns."<sup>5</sup> Furthermore, Christina alleged that Mitchell was a bad driver in the  
8 original divorce proceedings and in her December 17, 2008 motion which the Court denied.  
9

10  
11 For the record and in the interest of full disclosure, Mitchell received a traffic citation by the  
12 California Highway Patrol for speeding on Interstate 15 in August of 2009. The children were present in  
13 the vehicle when the violation occurred. Mitchell has not found a single case in Nevada or in any other  
14 jurisdiction where the custody designation and/or timeshare arrangement was changed on the basis of a  
15 minor traffic citation.  
16

17 **2. Countermotion to Permit Financial Discovery should be Denied; No Fraud has been**  
18 **Committed; and Christina's request for a Temporary Injunctions should be Denied**

19 For the first time, Christina alleges in her opposition and countermotion that Mitchell  
20 fraudulently concealed at least \$6.9 million from Christina prior to their divorce. Christina failed to  
21 comply with E.D.C.R. 5.11 prior to filing her countermotion.  
22

23 **(a) Christina's allegations of financial wrongdoing are pure fantasy and are designed  
24 to harass Mitchell because he filed his motion.**

25 The parties entered into a Marital Settlement Agreement dated February 20, 2008 (the "MSA").  
26 The terms and conditions were incorporated into the Decree of Divorce ("Decree"). The Decree was  
27 signed by the judge on March 5, 2008 and filed with the Clerk of the Court on March 6, 2008.  
28

---

<sup>5</sup> A review of the same website records also reveals that Christina has received similar citations; however, Mitchell does not allege that they are relevant to the motions before this Court.

1 However, Christina now argues that the Decree was not effective until May 2, 2008--the date she claims  
2 the order was entered. Mitchell believes that Christina's position is based on the date of filing of the  
3 Notice of Entry of Decree of Divorce and Certificate of Mailing, which Mitchell assumes is May 2,  
4 2008, but he admits he does not know. Regardless, the filing of this notice fails to control the validity of  
5 the order and its effectiveness with respect to the parties who received actual copies of the signed  
6 Decree on or about March 6, 2008. Mitchell fails to understand the significance of Christina's point on  
7 this matter. As far as Mitchell is concerned, it is immaterial as the Court will understand below.  
8

9 Christina attaches as Exhibits 9-14 to her opposition and counter-motion alleged "evidence" of  
10 Mitchell's financial fraud. These exhibits include Mitchell's February 19, 2009 Financial Disclosure  
11 Form (Exhibit 9), a printout from the Clark County Assessor's Website showing real property  
12 information for 1990 Granemore Street, Las Vegas, Nevada 89135 and a printout from the Nevada  
13 Secretary of State's Website showing LLC information for 1990 Granemore, LLC ("Granemore LLC")  
14 (Exhibit 10), bankruptcy schedules filed in connection with City Crossing 1, LLC's ("City Crossing")  
15 chapter 11 bankruptcy (Exhibit 11), Response of City Crossing's lender, Community Bank of Nevada  
16 ("CBON"), to City Crossing's motion to dismiss the chapter 11 bankruptcy (Exhibit 12), a printout from  
17 the Clark County Website showing a civil case records search performed on "William Plise" (Exhibit  
18 13), and an Opposition filed by CBON to a motion filed by City Crossing at the time of its bankruptcy  
19 filing (Exhibit 14).  
20  
21  
22

23 Mitchell's disclosure of his income in his February 19, 2009 Financial Disclosure Form was true  
24 and accurate when made. Christina has not argued that it was incomplete, misleading or false in any  
25 way. Despite Christina's attempt to do so, NO conclusion can be drawn from this form regarding  
26 Mitchell's assets or liabilities. Mitchell (just like Christina) was only required to supply income  
27 information and not expenses or a balance sheet. The fact that Mitchell reported an income of  
28

1 approximately \$2,000 per month reveals NOTHING about his assets or liabilities. Christina's  
2 conclusion that Mitchell's current monthly expenses amount to \$35,000 is baseless and purely  
3 speculative. She cannot rely upon Mitchell's November 20, 2006 Affidavit of Financial Condition  
4 which was prepared three (3) years ago on the basis of Mitchell's and Christina's combined monthly  
5 expenses at a time when he was married to Christina but living separately. At the time of filing  
6 Mitchell's latest disclosure form, Christina did not make any objections. Mitchell is capable of paying  
7 his current child support obligations, and he has not asked the Court to modify them. The fact that he  
8 has elected not to work and does not seek to modify his support obligations should not "open the door"  
9 for a fishing expedition by Christina. Christina does not work, and apparently, is not planning to return  
10 to work any time soon. She reported receiving more income than Mitchell on a monthly basis in her  
11 latest financial disclosure form filed with the Court. Does this mean she fraudulently concealed marital  
12 assets that rightfully belong to Mitchell? Given the sudden and significant decrease in the value of  
13 Mitchell's home after their divorce, it appears that Christina likely received the better end of the deal  
14 and she is not happy that Mitchell is not suffering financially from this loss of equity.

18 The printouts from the websites of the Clark County Assessor and the Nevada Secretary of State  
19 regarding 1990 Granemore Street and Granemore LLC can only be used to support the proposition that a  
20 limited liability company managed by Mitchell is listed as the owner of a property addressed as 1990  
21 Granemore Street and its last sales price was \$221,990. These exhibits do not provide that Mitchell  
22 owns Granemore LLC, how this property was purchased, or whether Mitchell's parents live there, pay  
23 rent or how much rent they pay if they do. While Mitchell is not required to explain his real estate  
24 purchases, the Court should take note that Mitchell formed Granemore LLC to purchase the property,  
25 Mitchell leased it to his parents, and his parents pay sufficient rent to pay all mortgage, tax and  
26  
27  
28

1 insurance costs and expenses. Basically, the property does not cost Mitchell anything to own and proves  
2 ABSOLUTELY NOTHING as it relates to Christina's allegations of fraud.

3  
4 NONE of the exhibits attached to Christina's opposition and countermotion contains any  
5 information that money was ever paid to Mitchell. The fact that City Crossing (and its predecessor  
6 entities) distributed approximately \$6.9 million to Aquila Investments, LLC ("Aquila") in the twelve  
7 (12) months preceding its bankruptcy filing (approximately \$3.4 million on June 13, 2007,  
8 approximately \$2.8 million on July 27, 2007, and \$750,000 on March 12, 2009 according to the  
9 bankruptcy schedules) does not mean Mitchell received any portion of these distributions. Christina is  
10 particularly concerned with the \$750,000 distribution paid to Aquila on or around the time of the parties'  
11 divorce. This explains Christina's fixation with the effective date of the Decree. Christina also claims  
12 that William Plise ("WWP") received \$62 million in proceeds from buying out his partners at City  
13 Crossing. Mitchell is unaware how Christina arrived at this calculation and believes she "pulled it out  
14 of thin air." She does not specify the source or methodology other than wrongly concludes that WWP  
15 bought out his partners for \$1.1 million per acre and therefore---with the waive of her magic wand---  
16 received \$62 million. Then, Christina makes the magic leap that Mitchell should have (and did) receive  
17 \$6.2 million which equals ten percent (10%) of \$62 million (and coincidentally the amount set forth in  
18 the bankruptcy schedules for distributions paid to Aquila (excluding \$750,000) during the twelve (12)  
19 months prior to City Crossing's bankruptcy). Mitchell does not understand Christina's magical  
20 calculation. For the record, Mitchell did not receive any portion of the distributions paid to Aquila as  
21 described above (including any portion of the distribution paid on March 12, 2009). This statement  
22 should be the end of the inquiry.  
23  
24  
25  
26

27 Christina attaches pleadings filed by CBON in City Crossing's bankruptcy. Their inclusion in  
28 Christina's opposition and countermotion is completely baffling. It appears that she has provided them



1 as "evidence" to demonstrate that WWP acknowledged that Stipp Investments, LLC ("Stipp  
2 Investments") owned a portion of Aquila (which Mitchell does not dispute) and that CBON argued  
3 during City Crossing's bankruptcy that the \$6.9 million distributed to Aquila were fraudulent transfers  
4 under the bankruptcy code. Mitchell is not certain why this means he received any portion of the  
5 money. Christina has a copy of the operating agreement for Aquila. The operating agreement specifies  
6 how and when distributions are paid to its members. Under the operating agreement, Aquila was not  
7 obligated to distribute any money to Stipp Investments unless and until Aquila's preferred capital  
8 account was repaid. This event never occurred. Christina can simply review her 2006, 2007 and 2008  
9 tax returns and she will discover that Aquila never issued a k-1 partnership return to Stipp Investments  
10 because no distributions were ever made to it.  
11

12  
13 And finally, Christina attaches a printout from the Clark County Website showing a civil case  
14 records search performed on "William Plise." Many of the cases shown are classified as "closed" and  
15 Mitchell again is not certain as to the document's relevance. Just because WWP and/or his affiliates  
16 have been sued does not mean Mitchell fraudulently concealed marital assets.  
17

18 Basically, Christina attaches numerous documents she does not understand (or even tries to  
19 understand), misrepresents to the Court their significance, and alleges fraud on Mitchell's part (which is  
20 often the case when people do not understand financial matters---i.e., "must be fraud because someone  
21 got money and I didn't and I don't understand why") and demands intrusive and evasive discovery  
22 without any reasonable basis for doing so. Since the parties divorced (whether viewed as March 6, 2008  
23 or May 2, 2008), Christina has never asked about any money to which she thought she was entitled as  
24 part of any alleged "bonus" paid to Mitchell or distributions paid to Aquila. Furthermore, the first time  
25 Christina has alleged that Mitchell has concealed marital assets rightfully belonging to her since the  
26 parties' divorce is in Christina's opposition and countermotion filed on November 30, 2009. It would  
27  
28

1 seem that the timing of Christina's allegations are suspect in light of Mitchell's motion, and Christina  
2 should not be permitted discovery and temporary injunctions based on pure fantasy.

3  
4 **3. Mitchell's Motion is Timely and Proper**

5 **(a) Res judicata does not bar Mitchell's motion.**

6 Christina mischaracterizes Mitchell's motion as a motion for reconsideration and rehearing of  
7 previously litigated matters. She relies on E.D.C.R. 2.24(a) and (b) to support her position. Her reliance  
8 on these rules is an attempt to distract the Court. Mitchell's motion is timely. Mitchell alleges in his  
9 motion that Christina has emotionally abused Mia after the parties entered into the August 7, 2009  
10 stipulation and order and that Mia is now suffering the emotional effects of such abuse.  
11

12 Christina's reliance on *Willerton v. Bassham, et al.*, 889 P.2d 823, 111 Nev. 10 (1995), for the  
13 proposition that res judicata bars Mitchell's motion is also misplaced. If Christina commits a bad act or  
14 multiple bad acts and the parties enter into a settlement resolving the specific matter(s), the settlement  
15 does not mean Christina can again commit the same or similar bad acts without ramifications  
16 (particularly if the bad acts involve the children and constitute abuse). Under Christina's theory, she is  
17 permanently protected from allegations of emotional abuse and is freely permitted to tell Mia after the  
18 August 7, 2009 stipulation and order that Mitchell is a cheater, that Amy Stipp ("Amy"), Mitchell's wife  
19 and the children's stepmother, stole him away from Christina, that Amy is really married to someone  
20 else and not Mitchell, that Christina hates Amy, and that the men Christina's dates will be Mia's new  
21 dad. Res judicata does not preclude this Court from considering Mitchell's motion.  
22

23  
24 **(b) Adequate cause exists to hear Mitchell's motion.**

25 Christina argues that "adequate cause" does not exist to warrant this Court's consideration of  
26 Mitchell's motion and it should be denied without a hearing. Assuming that Mitchell's motion should  
27 be treated by this Court as a motion to modify custody, Mitchell clearly sets forth a prima facie case for  
28

1 modification as described in *Rooney v. Rooney*, 853 P.2d 123, 109 Nev. 540 (1993). The facts alleged  
2 by Mitchell in his motion are relevant to the grounds for modification and the evidence is not merely  
3 cumulative or impeaching. Christina does not dispute that allegations of emotional abuse are relevant  
4 grounds for modification. However, she simply wants this Court to dismiss them because she claims  
5 they are "old news" and/or simply untrue. The evidence of Christina's bad acts is not merely cumulative  
6 as Christina argues; therefore, adequate cause exists to hear Mitchell's motion.  
7

8 **4. The Parties have Joint Physical Custody of the children; There has been a Substantial**  
9 **Change in Circumstances Affecting the Welfare of the Children**

10 **(a) Mitchell's timeshare satisfies the *Rivero II* definition of joint physical custody.**

11 The parties agreed in the MSA that they shall have joint physical custody of the children. The  
12 terms and conditions of the MSA were incorporated into the Decree except where changed by the  
13 August 7, 2009 stipulation and order. Since the parties entered into the stipulation and order, the  
14 Nevada Supreme Court issued its new opinion in *Rivero v. Rivero*, 125 Nev. Adv. Op. 34 (2009)  
15 ("*Rivero II*"), re-defining joint physical custody. Under *Rivero II*, the terms of the parties' custody  
16 arrangement will control except when the parties move the Court to modify the custody arrangement.  
17  
18 125 Nev. Adv. Op. 34 at 22.  
19

20 Christina spends a significant portion of her opposition and countermotion focusing on the exact  
21 number of hours the children are in Mitchell's care for purposes of defining the parties' custody  
22 arrangement. Christina's analysis is contrary to the *Rivero II* criteria. The *Rivero II* court stated:  
23

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

125 Nev. Adv. Op. 28-29 [Emphasis added].

1 Mitchell's current timeshare arrangement provides Mitchell with at least forty percent (40%) of  
2 the time or 146 days per year based on the criteria set forth above. However, Christina argues that  
3 Mitchell should not be permitted to count the days he has the children beginning at 6:00 p.m. as a full  
4 day. Mitchell disagrees; during these days Mitchell provides supervision of the children, the children  
5 reside with Mitchell, and Mitchell makes day-to-days decisions regarding the children.  
6

7 Christina points to Mitchell's statements in his affidavit that additional legal burdens are now  
8 imposed on him after *Rivero II* that did not exist before the decision as proof that Mitchell admits that  
9 Christina actually has primary physical custody. Now, because of Mitchell's motion and in light of  
10 *Rivero II*, the Court is required to undertake the task of defining the parties' custody arrangement which  
11 Mitchell believed was settled based on the parties' timeshare at the time of entry of the August 7, 2009  
12 stipulation and order. Mitchell's affidavit only makes references to this fact.  
13

14 The title of Mitchell's motion as set forth in the certificate of service is irrelevant. The  
15 typographical error in the certificate of service should not undermine his legal position.  
16

17 In the event that this Court determines that the parties' actual custody arrangement is not joint  
18 physical custody as defined by *Rivero II*, Mitchell acknowledges that his motion will be treated as a  
19 modification to a primary physical custodial arrangement. Under these circumstances, Mitchell agrees  
20 with Christina that the relevant considerations and applicable law for the Court to apply to Mitchell's  
21 motion are as follows: (1) whether there is a substantial change in the circumstances affecting the  
22 welfare of the children, and (2) whether the modification is in the children's best interests. *Ellis v.*  
23 *Curucci*, 123 Nev. 145, 150, 161 P.3d 239, 242 (2007).  
24

25 **(b) Mitchell desires to spend more time with his children and is not concerned about the**  
26 **designation of primary vs. joint physical custody.**

27 Mitchell predicted that Christina would seek to minimize Mitchell's request for equal time by  
28 suggesting that he has requested such time only because of the new definition of joint physical custody

1 adopted by the Nevada Supreme Court in *Rivero II*, and not with an interest of actually spending time  
2 with the children. This argument truly makes no sense. Mitchell is unconcerned with labels---joint  
3 versus primary physical custodian---so long as he has adequate time with the children. The parties  
4 already have joint physical custody of the children based on the freedom of contract principles set forth  
5 in *Rivero II*. Furthermore, neither party is moving out of state or seeks to alter Mitchell's child support  
6 obligations. Mitchell seeks more time with his children, and Christina refuses to provide it.<sup>6</sup> Christina  
7 has never asked for more time (until now by virtue of her countermotion to set aside the August 7, 2009  
8 stipulation and order) and any request to have more time with the children should be viewed as tactical  
9 and purely litigation motivated. Mitchell receives no other benefit from being with the children other  
10 than being with the children, and that is the basis of his motion.

11  
12  
13 **(c) The first prong of Ellis Test is satisfied.**

14 The first part of the test set forth in *Ellis* is whether there is a substantial change in the  
15 circumstances affecting the welfare of the children. Mitchell asserts in his motion that a substantial  
16 change in the circumstances affecting the welfare of the children has occurred based on a number of  
17 circumstances, including, principally, the following: (1) Mitchell believes that the continued emotional  
18 abuse by Christina of Mia and the resulting impact on Mia is now manifesting itself as severe mood  
19 swings and significant anger management problems; (2) The problems are severe enough that both  
20 Christina and Mitchell believe that Mia requires the assistance of a mental health service provider; (3)  
21  
22  
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24

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25 <sup>6</sup> Christina argues that Mitchell has not complied with E.D.C.R. 5.11 regarding his desire to spend more time with the  
26 children. Mitchell has attempted to resolve the issue with Christina prior to filing his motion, but as Christina admits in  
27 paragraph 52 of her affidavit, she refuses to provide any additional time: "Mia needs to know that she has a set schedule that  
28 we all have to live by, and that *it is not open to modification at anyone's whim for any reason.*"

1 Mitchell used to visit Mia at school every day, Mia looked forward to those visits, he can no longer do  
2 so, and this fact has affected Mia; and (4) Mitchell has elected not to return to work.

3  
4 Again, Christina focuses on the concept of res judicata with the case of *Mosely v. Figliuzzi*, 930  
5 P.2d 1110, 113 Nev. 51 (1997). The changed circumstance prong in *Ellis* while based on the concept of  
6 res judicata does not preclude the Court from considering Mitchell's allegations of continued abuse by  
7 Christina and the resulting impact on Mia under *Mosely*. Continued emotional abuse obviously  
8 constitutes a change in circumstances. Such facts did not exist in *Mosely*. Rather than address this  
9 issue, Christina attempts to distract this Court with Mitchell's arrest in 2008 by comparing it to the  
10 circumstances of domestic abuse as detailed in *Castle v. Simmons*, 120 Nev. 98, 86 P.3d 1042 (2004).  
11 Clearly, the circumstances are not the same.  
12

13 **(i) Christina falsely denies parental alienation.**

14 Christina falsely denies that she has ever taken any steps to alienate the children from Mitchell.  
15 She describes and attaches an email from Mitchell to Christina on September 23, 2009. The  
16 circumstances of the email are specifically worth addressing (which Christina does not do). According  
17 to Christina, Mia apparently expressed a desire to attend school full days rather than half days for the  
18 current school year. Mitchell supported the idea if Mia wanted to attend. Christina allowed Mia to  
19 attend full days with the school's permission on a trial basis for a few days. Mia's teachers informed  
20 Christina that Mia did well and that they recommended to Christina that Mia make the transition to full  
21 days. At that time, Christina contacted Mitchell to inquire whether he would pay his share of the  
22 increased costs of tuition and set a deadline for his response. Mitchell timely responded and offered to  
23 pay his share. After doing so, Christina communicated to him that Mia changed her mind over the  
24 weekend and that she would not be making the transition. As far as Mitchell knew, Mia did well during  
25 the days she attended full time, and the school recommended to Christina to make the transition.  
26  
27  
28

1 Christina did not communicate to Mitchell that she had any reservations or issues with Mia attending  
2 school full time (as she appears now to do in her affidavit). Accordingly, Mitchell told Christina not to  
3 wait but immediately enroll Mia full time. Later in the week, Mia called Mitchell and informed him that  
4 she was mad at him because Christina told her that Mitchell was forcing her to go to school full time and  
5 that she did not want to go. What kind of parent would tell a child this? Mia was already having  
6 difficulty adjusting to school and believed that Mitchell was forcing her to attend school for even more  
7 time.  
8

9  
10 Mitchell responded by sending Christina a private email that Christina simply ignored at the time  
11 but inappropriately forwarded to Alexander Dawson's Early Childhood Center Director, Tara Hall. This  
12 act was clearly designed to embarrass Mitchell and drive a wedge between Mitchell and the school since  
13 he addressed Christina with anger and severe criticism. Mitchell was clearly upset by Christina's  
14 manipulation of Mia and mismanagement of this parental matter. Simply put, Christina was not acting  
15 in the best interests of Mia. While there is no excuse for this reaction, every person has a breaking  
16 point, and Mitchell should not have to endure Christina's use of the children to attack him, and Mia  
17 should not have to suffer the emotional trauma of Christina's tactics. Ultimately, Mitchell withdrew his  
18 support for Mia to attend full days because she was clearly affected by the idea of Mitchell forcing her  
19 to attend and communicated to Christina his extreme displeasure with the situation. While Mitchell's  
20 choice of words is not preferable, it demonstrates his frustration with Christina who only sees Mitchell  
21 as a bank account and not a parent who cares about his children. Christina's manipulation of Mia is a  
22 prime example of using Mia without regard to the impact on her welfare to alienate Mitchell from her  
23 (and drive a wedge between Mitchell and Mia's teachers and administration).  
24  
25  
26  
27  
28

(ii) Mitchell does not claim that Mia's clothing issues are a substantial change in circumstances.

Christina claims that Mia's clothing issues are nothing new. Mitchell does not disagree. Until recently, the cause was unknown, and the issues were not as severe. Mitchell has never claimed that Mia did not have any issues related to her clothing. Initially, Mitchell believed that the cause was poor parenting by both of the parties (e.g., catering to Mia and allowing her to wear whatever she wanted, whenever she wanted). He does not believe these clothing issues are the result of the parties' divorce and his subsequent marriage to Amy as Christina alleges. Christina claims that Mia's teachers, school administrators, family counselor and psychologist agree with her, yet she has never supplied Mitchell with any evidence of this fact. According to Mitchell, Mia's clothing and emotional trauma are separate and distinct problems.

(iii) Mia's anger issues are new (or source of issues is now known).

Christina confuses instances of Mia "acting out" with Mia's current emotional trauma, mood swings, and anger management issues. Christina attaches to her opposition and counter motion an email Mitchell sent to her on December 14, 2008 (almost a year ago). On the basis of this email, Christina claims that Mia's anger is not new to Mitchell. Mitchell believes that the behavior may be related but the source of the problem was unknown to him at the time. Christina also argues that Mitchell is unable to handle his anger appropriately with respect to the children. Mitchell denies such a claim. Christina further falsely claims that Mitchell and Amy regularly hit the children and that Mitchell recently caused "multiple bloody gauges" to Ethan's ear. These types of false claims are designed to distract the Court from Christina's bad acts. If Christina is truly concerned about the safety and welfare of the children, she would not be opposing an evaluation of the children.

Even after the parties entered into the August 7, 2009 stipulation and order, Mia continued to tell Mitchell that Christina says he is a cheater, that Amy stole him away from Christina, that Amy is really



1 married to someone else and not Mitchell, that Christina hates Amy, and that any man that Christina  
2 dates will be Mia's new dad. Mitchell believes that Christina continues to communicate these items  
3 (and likely others) to Mia to harass Mitchell and Amy using Mia as a tool. Mia also regularly reports to  
4 Mitchell and Amy that Christina often shows Mia wedding pictures of Mitchell and Christina when they  
5 were married (a fact that Christina proudly admits in her affidavit)<sup>7</sup>. When Mia confronts Mitchell  
6 and/or Amy with these items, which occurs now almost every visitation period, Mitchell and Amy try to  
7 explain them to Mia to the extent appropriate. Mitchell and Amy tell Mia that Mitchell is not a cheater,  
8 that he was married to Christina but now is married to Amy, that Mitchell and Amy like Christina and  
9 that Christina really does like Amy, that Christina is a good person and loves Mia very much, that Amy  
10 was married before to "James" as Mia alleges but now she is married to Mitchell, and that Mitchell is  
11 her dad but may be some day she will have a stepdad if Christina re-marries. Mia often refuses to accept  
12 the explanations provided by Mitchell and Amy. She will become argumentative and will say that "you  
13 are wrong," "that is not true" and "you are lying." These discussions often result in Mia becoming very  
14 angry and highly emotional; Mia will defend her beliefs as truth simply because she claims Christina  
15 communicated them to her. These bad acts have caused Mia to suffer significant emotional trauma  
16 which is now manifesting itself as severe mood swings and anger.

17  
18  
19  
20  
21 (iv) Christina has manipulated the therapeutic process to cover up her  
22 bad acts which now has been independently confirmed by Dr.  
23 Kalodner.

24 At the request of Christina, Mia is currently being treated by Dr. Joel Mishalow, Ph.D, but  
25 Christina has undermined that treatment and Mitchell has been excluded. Per Christina's request and  
26 after Christina provided Dr. Mishalow a copy of Mitchell's motion, Dr. Mishalow refuses to provide any  
27

28 <sup>7</sup> Mitchell has never denied the existence of his prior marriage to Christina to the children. He simply believes that showing them wedding pictures is probably not the best way to address the parties' divorce and Mitchell's subsequent marriage to Amy. The children really do not understand the concept of marriage and divorce.

1 information regarding Mia's treatment scheduled by Christina. Furthermore, Mitchell is not able to  
2 schedule regular appointments during his timeshare arrangement. See attached as Exhibit "B"  
3 correspondence from Mitchell to Dr. Mishalow dated November 9, 2009 and December 2, 2009 and  
4 emails by and between Mitchell and Christina dated November 10, 2009.

5  
6 Given the continuous and unresolved issues with Christina's control of the evaluation process  
7 and Mia's treatment, Mitchell believed Mia's clothing issues would remain undiagnosed and untreated.  
8 Christina was too concerned with scheduling the appointments, covering up her bad acts by preventing a  
9 qualified psychologist from evaluating Mia alone and sharing relevant information with Mitchell, and  
10 fixation with her role as "super mom" by getting Mitchell to accept her solution to Mia's clothing issues  
11 ("reward chart system" using stickers and prizes downloaded from supernannies.com), Mitchell decided  
12 to act in the best interest of Mia. Mitchell engaged Dr. Melissa Kalodner<sup>8</sup> to evaluate Mia's clothing  
13 issues and assist him and his wife Amy with Mia's emotional issues. Dr. Kalodner, a clinical child  
14 psychologist, evaluated Mia alone (which Mia did not object to) for five (5) fifty (50) minute sessions  
15 over the course of several weeks and concluded that Mia's clothing issues are NOT caused by an  
16 obsessive compulsive disorder. Dr. Kalodner also consulted with a neurological psychologist and  
17 concluded that Mia's clothing issues are likely the result of a sensory processing disorder. Dr. Kalodner  
18 referred Mitchell to Dr. Tania Stegen-Hanson, a pediatric occupational therapist, who evaluated Mia's  
19 clothing issues and concluded that Mia suffers from a mild sensory processing disorder. Dr. Stegen-  
20 Hanson desires to treat Mia for this condition and is very optimistic about her success. Mia's clothing  
21 issues may be resolved in a few months of treatment.

22  
23 Attached as Exhibit "C" is a letter from Dr. Kalodner to Mitchell Stipp dated December 4, 2009.  
24  
25  
26  
27

28  

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<sup>8</sup> Christina has expressed no issues concerning Dr. Kalodner's competence.

1 According to Dr. Kalodner, Christina made it clear that she was unhappy with Mitchell scheduling  
2 Mia's first appointment and that she wanted to be present during the evaluation of Mia. Dr. Kalodner  
3 communicated to Christina that it did not matter which parent scheduled the first appointment and made  
4 it clear to Christina that she wanted to meet with Mia alone. This letter demonstrates that Christina lied  
5 to Mitchell and the Court about the circumstances surrounding her decision not to engage Dr.  
6 Kalodner's services.  
7

8 The time for Christina to take responsibility for her bad acts is here. Christina vehemently  
9 denies making statements to Mia that disparage Mitchell and Amy (including revealing that Amy was  
10 previously married to "James") and completely dismisses Mia's desire to spend more time with Mitchell  
11 as fabrications. Dr. Kalodner now independently verifies that Mia communicated (among other items)  
12 the following during her evaluation:  
13

14 (1) "I want to spend more time with my Dada but Mommy says we can't change the rules."  
15

16 (2) "I want to spend more time with my Dada but the judge won't let me."  
17

18 (3) "Amy was married to James."  
19

20 (4) "Momma does not like Amy."  
21

22 (5) "Momma says Amy is bad, but I like her."  
23

24 (6) "Momma doesn't say anything about Dada and Amy anymore."  
25

26 To date, Mitchell did not want to involve Dr. Kalodner in the litigation. The first and second statements  
27 appear to be Christina's explanations to Mia why she cannot spend more time with Mitchell.  
28 Apparently, Mia has asked Christina to spend more time with Mitchell but she has refused to allow Mia  
to do so. The third statement confirms that Mia is aware that Amy was married to "James," which fact  
Mitchell alleges Christina communicated to Mia. The fourth and fifth statements make it clear that Mia  
is aware of Christina's feelings towards Amy and that Christina has actually communicated bad things

1 to Mia about Amy. And finally, the sixth statement seems to indicate that Christina has stopped  
2 disparaging Mitchell and Amy (probably as a result of the litigation) and that she made this statement to  
3 Mia with the hope that Mia will repeat it if ever asked about Christina's bad acts. This letter makes it  
4 impossible for Christina to continue to deny Mitchell's allegations that she has emotionally abused Mia.  
5

6 **(v) Christina voluntarily chooses not to facilitate daily telephonic**  
7 **communication.**

8 Mitchell never admitted in his motion that he is the cause for Christina's refusal to facilitate daily  
9 telephonic communication with the children as required by the August 7, 2009 stipulation and order.  
10 Christina attaches to her motion an email exchange between her and Mitchell on July 30, 2009. These  
11 emails were exchanged by the parties prior to the entry of the August 7, 2009 stipulation and order and  
12 do not offer any explanation for Christina's failure. Christina completely ignores these matters and  
13 instead focuses on Mitchell's statements made about Shawn Goldstein and Jim Jimmerson, Christina's  
14 former attorneys. The purpose of this technique is to distract the Court. These are the lawyers that  
15 appeared before the Court and called Mitchell a "liar" and attacked his personal and professional  
16 character and reputation.  
17

18 Mitchell's motion makes it very clear about his reasons for electing not to force the children to  
19 call Christina on a daily basis. He makes no attempt to conceal the reasons for his decision.  
20 Nevertheless, Mitchell's decision DOES NOT in any way affect Christina. She can (and nothing is  
21 preventing her from doing so) facilitate telephonic communication with the children. Christina  
22 voluntarily chooses not to do so.  
23

24 **(vi) Christina is not entitled to additional vacation time.**

25 Christina is not entitled to take an additional week of vacation time this calendar year. If  
26 Christina would like additional time, Mitchell has asked that Christina provide him make-up time.  
27 Mitchell is willing to modify the manner in which the parties take vacation time in the future to  
28

1 accommodate Christina's desire to take vacation in one (1) week blocks. Attached as Exhibit "D" is  
2 email correspondence by and between Mitchell and Christina regarding this issue.

3 **(vii) Mitchell has attended COPE class; Mitchell is not the source of the**  
4 **conflict or hostility between the parties.**

5 Mitchell has attended COPE class. Attached as Exhibit "E" is Mitchell's certificate of  
6 attendance. Mitchell is not the source of the conflict or hostility between the parties. Christina argues  
7 repeatedly that Mitchell is angry and hates her but completely denies her bad behavior.  
8

9 The fact that Christina claims that the parties have been able to attend several school functions  
10 since the August 7, 2009 stipulation and order without incident as evidence that Christina is the innocent  
11 party and Mitchell is the one "who perpetuates animosity" is inconsistent with the facts (including the  
12 emails Christina attaches to her opposition and counter-motion). At these functions, Mitchell and  
13 Christina do not interact at all.  
14

15 Christina also complains that Mitchell is refusing to attend an upcoming medical appointment for  
16 Ethan Stipp ("Ethan") claiming that Mitchell believes "perpetuation of such conflict will further his  
17 litigation." At Ethan's last doctor's appointment that Mitchell attended,<sup>9</sup> at its conclusion, Christina  
18 refused to pay any portion of the co-payment or costs for x-rays when the medical assistant presented  
19 Christina with the bill, she left the bill on the examining table after reviewing it, exited the doctor's  
20 office and followed Mitchell into the parking lot (after he paid the bill) shouting at him. Christina told  
21 Mitchell that he was a "bad person" for asking her to pay anything. Under these circumstances, Mitchell  
22 would like to avoid such situations and would prefer not to attend routine doctor visits because of the  
23 risk of Christina behaving badly and traumatizing the children.  
24  
25

26 **(viii) Mia's reluctance to return to Christina's home is true.**  
27

28 <sup>9</sup> Christina indicates that Ethan has "knocked knees," but Ethan's orthopedic pediatrician has diagnosed Ethan with a slightly rotated thigh bone that will likely require surgery when Ethan reaches adolescence.

1 Mitchell does not argue that Mia's recent reluctance to return to Christina's home after  
2 Mitchell's timeshare is a substantial change in circumstances. Mitchell simply points out that Mia  
3 desires to spend more time with him. He concedes that Mia has expressed this fact in the past. The  
4 affidavit of Mitchell's sister who is responsible for picking up and dropping off the children supports  
5 this fact. Despite Christina's assertions, Mitchell's sister is not financially motivated in any way to  
6 commit perjury by supplying a false affidavit.  
7

8 **(ix) Christina has absolutely affected Mitchell's ability to visit the children**  
9 **at school.**

10 Mitchell visited Mia daily while Mia attended Temple Beth Shalom during the 2007-2008 school  
11 year. Mitchell also visited Mia and Ethan daily while they attended the same school for the 2008-2009  
12 school year. Ethan's teachers for the current school year were Mia's same teachers for the 2007-2008  
13 school year. Now, Ethan's teachers refuse to allow Mitchell to visit Ethan. Why? Christina alleges that  
14 it is because Ethan has "fundamental social delays." Ethan's teachers claim that it is their "discretion"  
15 and they prefer not to have visitors during the school day. Notwithstanding these very different  
16 explanations, Mitchell has picked Ethan up from school on more than one occasion and discovered that  
17 Christina was present with Ethan eating lunch or playing with him in the classroom.  
18  
19

20 At the beginning of Mia's current school year at Alexander Dawson, the school informed  
21 Mitchell that he could visit Mia at school (but not until October 1, 2009). To date, the school has not  
22 permitted Mitchell to visit Mia. No explanation has been provided.  
23

24 Mia's and Ethan's teachers are aware of Mitchell's motion. Apparently, Christina provided  
25 copies to them.  
26  
27  
28

1                   (x)     **Mitchell has paid his portion of the costs and expenses of the**  
2                               **children's private school education.**

3  
4           Christina continues to misrepresent facts to this Court regarding the payment of private school  
5 costs and expenses. Mitchell has paid his share of the costs and expenses of the children's private  
6 school education for the 2008-2009 and 2009-2010 school years.

7                   (xi)    **Mitchell regularly takes the children to school during his timeshare.**

8           Christina's claim that Mitchell fails to take the children to school is news to Mitchell. Christina  
9 has never communicated this concern to Mitchell. The fact is that Mia and Ethan attend pre-school.  
10 Their attendance is not required. Mitchell, however, has taken the children to school during his  
11 timeshare except when they were ill or the children had conflicting activities or appointments. Christina  
12 has not taken the children to school every day either. The Court should also note that Christina desired  
13 to take the children out of town during the week of Thanksgiving for this year, and Ethan would have  
14 missed several days of school. It is not clear why Christina is permitted to plan such trips, but when  
15 Mitchell notified Christina that he intended to take the children out of town on December 11, 2009 and  
16 the children would not be able to attend school that day, it is suddenly a problem. Mitchell has properly  
17 notified Christina of his intention to take the children out of town pursuant to the Court's minute order  
18 on the matter and intends to provide an itinerary for the upcoming trip as required by the MSA.  
19 Christina's complaint that she has not received an itinerary for the planned trip is meritless at this  
20 juncture.  
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III.

CONCLUSION

Based upon the foregoing, the court should enter the following orders:

1. Confirm the parties' status as joint physical custodians;
2. Modify the timeshare of the children to grant the parties equal time and more frequent associations with the children;
3. Order a child custody assessment to determine the root of the parties' children's emotional problems;
4. Deny Christina's counter motions; and
5. For such other and further relief that the court deems necessary and proper.

Dated this 7th day of December, 2009.

RADFORD J. SMITH, CHARTERED

  
RADFORD J. SMITH, ESQ.

Nevada Bar No. 002791

64 N. Pecos Road, Suite 700

Henderson, Nevada 89074

(702) 990-6448

Attorneys for Defendant



1  
2  
3 **CERTIFICATE OF SERVICE**

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

8 I served the foregoing document described as "Reply to Opposition to Defendant's Motion to  
9 Confirm Parties as Joint Custodians and to Modify Timeshare Arrangement and Opposition to  
10 Countermotion to Set Aside August 7, 2009 Stipulation and Order Due to Defendant's Fraud upon the  
11 Court, Grant Discovery, Partition Undisclosed Marital Assets, and for Sanctions" on this 7<sup>th</sup> day of  
12 December, 2009, to all interested parties as follows:  
13

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

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

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

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

22 Christina Calderon-Stipp  
23 11757 Feinberg Place  
24 Las Vegas, Nevada 89138  
25 Facsimile: 702-240-4937  
26 Email: ccstipp@gmail.com

27   
28 An employee of Radford J. Smith, Chartered

## **EXHIBIT A**

[illegible]

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

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

1. That I have personal knowledge of the facts contained herein, and I am competent to testify thereto. I am the Defendant and Christina Calderon-Stipp ("Christina") is the Plaintiff in the case of *Stipp v. Stipp*, case number D08-389203-Z in the Eighth Judicial District Court, State of Nevada. I submit this affidavit in support of my Reply to Opposition to Defendant's Motion to Confirm Parties as Joint 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.

2. I was arrested on May 12, 2008 for misdemeanor driving under the influence of alcohol. At the time of my arrest, I believed that I passed a field sobriety test but failed the preliminary breath test.<sup>1</sup> I consumed two (2) alcoholic beverages<sup>2</sup> while eating dinner at Del Frisco's with co-workers from my prior employer, PLISE. I was pulled over by the Metropolitan Police Department a few blocks from the restaurant because my vehicle had expired registration tags. I elected to provide a blood sample at the Clark County Detention Center. I was transported to the Clark County Detention Center, provided a blood sample, and was released a few hours later. Upon my release, I was provided a court date of August 12, 2008. I engaged Frank Cremen, Esq., to represent me. Around the first week of August of

<sup>1</sup> The arresting officer informed me at the time of my arrest that I registered a preliminary breath test result of 0.09.

<sup>2</sup> Mitchell weighs approximately 145 pounds and is 5 feet 8 inches tall.

1 2008, Mr. Cremen contacted me to inform me that the Clark County District Attorney's Office had not  
2 approved a criminal complaint against me. At that point, I also had not received any notice from the  
3 Nevada Department of Motor Vehicles (the "Nevada DMV") suspending my driver's license.  
4 Therefore, I believed I would not be prosecuted.  
5

6 3. Mr. Cremen contacted me sometime in December of 2008 to inform me that a criminal  
7 complaint had been filed against me on December 2, 2008 for misdemeanor driving under the influence  
8 of alcohol (NRS 484.379). An initial arraignment was scheduled for December 30, 2008. I did not  
9 attend. Mr. Cremen attended the arraignment and entered a plea of not guilty on my behalf. Trial was  
10 scheduled for May 21, 2009. Some time before the trial date (but after I filed my January 8, 2008  
11 opposition and counter motion), Mr. Cremen contacted me to discuss the arrest report and laboratory  
12 results. Mr. Cremen informed me that the blood sample taken on the day of my arrest contained a  
13 concentration of alcohol of 0.117 grams per 100 milliliters of blood. Mr. Cremen negotiated a plea  
14 agreement, and I pled no contest (with adjudication to be withheld pending completion of DUI School  
15 and a victim impact panel) to reckless driving on May 27, 2009. I successfully completed the  
16 conditions to my plea arrangement. Accordingly, on August 26, 2009, the complaint was amended to  
17 reckless driving and the case was closed. At no time did the Nevada DMV suspend my driving  
18 privileges.  
19  
20  
21

22 4. I believe Christina discovered my arrest for driving under the influence of alcohol when  
23 searching the public records for "dirt" only after receiving my October 29, 2009 motion. My belief is  
24 based on the November 24, 2009 date of the certified copy of the Disposition Notice and Judgment  
25 attached to her pleadings.  
26

27 5. Since the date of my divorce from Christina through the date of filing Christina's  
28 December 17, 2008 motion, Christina never communicated to me that she had any concerns regarding

1 his use of alcohol. The first time I became aware of Christina's concerns was in her motion; however,  
2 she never alleged that I was unfit (including through the period after the August 7, 2009 stipulation and  
3 order).  
4

5 6. I believe it is important for the Court to order an assessment of the children to determine  
6 if my alleged alcoholism and apparent reckless driving really pose a "safety threat" as Christina  
7 contends in her countermotion and opposition. I am not asking the Court to simply take my word for it  
8 that I am a fit parent as Christina alleges. I believe the Court has no other choice but to order an  
9 assessment under the circumstances to get to the bottom of these allegations. It does not make any sense  
10 to allege that I am unfit and pose a safety threat to the children and oppose my request for a child  
11 custody assessment.  
12

13 7. Neither my counsel nor I made any attempt to conceal my arrest, charge or plea.<sup>3</sup> All  
14 statements made by my counsel and me in filings with and at all hearings before the Court have been  
15 true and accurate with respect to my use of alcohol. Mitchell included in his January 8, 2009 opposition  
16 and countermotion the following statements:  
17

18 Mitchell denies that he is an alcoholic or drinks too much alcohol. In fact,  
19 Mitchell now rarely consumes alcohol. In the unlikely event that Mitchell  
20 consumes alcohol, he does so responsibly and never during the days and  
21 times that Mitchell has visitation with the children.

22 These statements were true and accurate when I made them (and are true and accurate now). My arrest  
23 eight (8) months before I filed my January 8, 2009 opposition and countermotion do not make any of  
24 these statements false or misleading and certainly do not amount to fraud on the Court. In fact, my use  
25 of the word "now" makes it very clear that I acknowledged drinking more in the past.  
26  
27

28 <sup>3</sup> At the time Christina filed her initial motion in December of 2008, the arrest and charge was a matter of public record.

1           8.       At the time I was arrested, my children were not present in the automobile. The arrest  
2 did not occur during any period of my timeshare with the children. No property was damaged, and no  
3 one was injured. I have not been arrested for or charged with any alcohol related offenses since that  
4 time. I accepted complete responsibility for my actions, paid a fine of \$580 and learned a significant  
5 and important lesson from attending DUI School and a victim impact panel.  
6

7           9.       I do not dispute that I was involved in an accident in November of 2006 the specific  
8 circumstances of which are detailed in the insurance records included as part of Christina's  
9 countermotion and opposition. However, I deny that the accident was caused by alcohol as Christina  
10 alleges.  
11

12          10.      I reviewed the traffic case records search attached as Exhibit 8 to Christina's  
13 countermotion and opposition and cannot determine on the basis of the review the specific charges  
14 (moving vs. non-moving violations) other than as identified on the report (which include license,  
15 insurance and registration citations), the specific circumstances of the citation, and/or the validity of the  
16 citation.  
17

18          11.      I received a traffic citation by the California Highway Patrol for speeding on Interstate 15  
19 in August of 2009. The children were present in the vehicle when the violation occurred.  
20

21          12.      The parties entered into a Marital Settlement Agreement dated February 20, 2008 (the  
22 "MSA"). The terms and conditions were incorporated into the Decree of Divorce ("Decree"). The  
23 Decree was signed by the judge on March 5, 2008 and filed with the Clerk of the Court on March 6,  
24 2008. I believe that Christina's position that the Decree was not effective until May 2, 2008 is based on  
25 the date of filing of the Notice of Entry of Decree of Divorce and Certificate of Mailing, which I assume  
26 is May 2, 2008, but I do not know for certain. The parties received actual copies of the signed Decree  
27  
28

1 on or about March 6, 2008. I do not understand the significance of Christina's point on this matter. As  
2 far as I am concerned, it is immaterial.

3 13. My disclosure of my income in my February 19, 2009 Financial Disclosure Form was  
4 true and accurate when made. No conclusion can be drawn from this form regarding my assets or  
5 liabilities. The fact that I reported an income of approximately \$2,000 per month reveals nothing about  
6 my assets or liabilities. Christina's conclusion that my current monthly expenses amount to \$35,000 is  
7 baseless and purely speculative. My November 20, 2006 Affidavit of Financial Condition was prepared  
8 three (3) years ago on the basis of our combined monthly expenses at a time when I was married to  
9 Christina but living separately. I am capable of paying my current child support obligations, and I have  
10 not asked this Court to modify them. Christina does not work, and apparently, is not planning to return  
11 to work any time soon. She reported receiving more income than I did on a monthly basis in her latest  
12 financial disclosure form filed with the Court. Christina is not happy that I am not suffering financially  
13 from the loss of equity in my home.

14 14. The printouts from the websites of the Clark County Assessor and the Nevada Secretary  
15 of State regarding 1990 Granemore Street and 1990 Granemore LLC ("Granemore LLC") attached to  
16 Christina's opposition and counter-motion do not provide that I own Granemore LLC, how this property  
17 was purchased, or whether my parents live there, pay rent or how much rent they pay if they do. I  
18 formed Granemore LLC to purchase the property, I leased it to my parents, and my parents pay  
19 sufficient rent to pay all mortgage, tax and insurance costs and expenses. Basically, the property does  
20 not cost me anything to own and proves absolutely nothing as it relates to Christina's allegations of  
21 fraud.

22 15. None of the exhibits attached to Christina's opposition and counter-motion contains any  
23 information that money was ever paid to me. The fact that City Crossing 1, LLC (and its predecessor  
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1 entities) ("City Crossing") distributed approximately \$6.9 million to Aquila Investments, LLC  
2 ("Aquila") in the twelve (12) months preceding its bankruptcy filing (approximately \$3.4 million on  
3 June 13, 2007, approximately \$2.8 million on July 27, 2007, and \$750,000 on March 12, 2009 according  
4 to the bankruptcy schedules attached by Christina to her pleadings) do not mean that I received any  
5 portion of these distributions. Christina is particularly concerned with the \$750,000 distribution paid to  
6 Aquila on or around the time of our divorce. This explains Christina's fixation with the effective date of  
7 the Decree. Christina also claims that William Plise ("WWP") received \$62 million in proceeds from  
8 buying out his partners at City Crossing. I am unaware how Christina arrived at this calculation, and I  
9 believe she "pulled it out of thin air." She does not specify the source or methodology other than  
10 wrongly concludes that WWP bought out his partners for \$1.1 million per acre and therefore---with the  
11 waive of her magic wand--- received \$62 million. Then, Christina makes the magic leap that I should  
12 have (and did) receive \$6.2 million which equals ten percent (10%) of \$62 million (and coincidentally  
13 the amount set forth in the bankruptcy schedules for distributions paid to Aquila (excluding \$750,000)  
14 during the twelve (12) months prior to City Crossing's bankruptcy). I do not understand Christina's  
15 magical calculation.

16 16. I did not receive any portion of the distributions paid to Aquila as described above  
17 (including any portion of the distribution paid on March 12, 2009).

18 17. Christina attaches pleadings filed by Community Bank of Nevada ("CBON") in City  
19 Crossing's bankruptcy. Their inclusion in Christina's opposition and counter-motion is completely  
20 baffling. It appears that she has provided them as "evidence" to demonstrate that WWP acknowledged  
21 that Stipp Investments, LLC ("Stipp Investments") owned a portion of Aquila (which I do not dispute)  
22 and that CBON argued during City Crossing's bankruptcy that the \$6.9 million distributed to Aquila  
23 were fraudulent transfers under the bankruptcy code. I am not certain why this means I received any



1 portion of the money. Christina has a copy of the operating agreement for Aquila. The operating  
2 agreement specifies how and when distributions are paid to its members. Under the operating  
3 agreement, Aquila was not obligated to distribute any money to Stipp Investments unless and until  
4 Aquila's preferred capital account was repaid. This event never occurred. Christina can simply review  
5 her 2006, 2007 and 2008 tax returns and she will discover that Aquila never issued a k-1 partnership  
6 return to Stipp Investments because no distributions were ever made to it.  
7

8 18. Christina attaches to her opposition and countermotion a printout from the Clark County  
9 Website showing a civil case records search performed on "William Plisc." Many of the cases shown  
10 are classified as "closed," and I am not certain as to the document's relevance. Just because WWP  
11 and/or his affiliates have been sued does not mean I fraudulently concealed marital assets.  
12

13 19. Christina attaches numerous documents to her pleadings she does not understand (or even  
14 tries to understand), misrepresents to the Court their significance, and alleges fraud on my part (which is  
15 often the case when people do not understand financial matters---i.e., "must be fraud because someone  
16 got money and I didn't and I don't understand why") and demands intrusive and evasive discovery  
17 without any reasonable basis for doing so. Since our divorce (whether viewed as March 6, 2008 or May  
18 2, 2008), Christina has never asked about any money to which she thought she was entitled as part of  
19 any alleged "bonus" paid to me or distributions paid to Aquila. Furthermore, the first time Christina has  
20 alleged that I have concealed marital assets rightfully belonging to her since the divorce is in Christina's  
21 opposition and countermotion filed on November 30, 2009.  
22

23 20. My current timeshare arrangement provides me with at least forty percent (40%) of the  
24 time or 146 days per year based on the criteria set forth *Rivero v. Rivero*, 125 Nev. Adv. Op. 34 (2009)  
25 ("Rivero II").  
26  
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1           21. I am unconcerned with custodial labels---joint versus primary physical custodian---so  
2 long as I have adequate time with my children. Neither Christina nor I is moving out of state or seeks to  
3 alter my child support obligations. I simply want more time with my children. Christina has never  
4 asked for more time (until now by virtue of her counter motion to set aside the August 7, 2009 stipulation  
5 and order) and any request to have more time with the children should be viewed as tactical and purely  
6 litigation motivated. I receive no other benefit from being with the children other than being with the  
7 children, and that is the basis of my motion.  
8

9           22. Christina claims that Mia Stipp's ("Mia") clothing issues are nothing new. I do not  
10 disagree. Until recently, the cause was unknown, and the issues were not as severe. I never claimed that  
11 Mia did not have any issues related to her clothing. Initially, I believed that the cause was poor  
12 parenting by us (e.g., catering to Mia and allowing her to wear whatever she wanted, whenever she  
13 wanted). I do not believe these clothing issues are the result of our divorce and my subsequent marriage  
14 to Amy Stipp ("Amy") as Christina alleges. Christina claims that Mia's teachers, school administrators,  
15 family counselor and psychologist agree with her, yet she has never supplied me with any evidence of  
16 this fact. Mia's clothing and emotional trauma are separate and distinct problems.  
17

18           23. Christina confuses instances of Mia "acting out" with Mia's current emotional trauma,  
19 mood swings, and anger management issues. Christina attaches to her opposition and counter motion an  
20 email I sent to her on December 14, 2008 (almost a year ago). On the basis of this email, Christina  
21 claims that Mia's anger is not new to me. I believe that the behavior may be related but the source of  
22 the problem was unknown to me at the time.  
23

24           24. I deny having anger issues with respect to the children. I also deny that Amy and I  
25 regularly hit the children and that I abused Ethan Stipp ("Ethan") when he sustained a scratch to his ear.  
26  
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1           25.     I have never denied the existence of my prior marriage to Christina to the children. I  
2 believe that showing them wedding pictures is probably not the best way to address the divorce and my  
3 subsequent marriage to Amy. The children really do not understand the concept of marriage and  
4 divorce.  
5

6           26.     At the request of Christina, Mia is currently being treated by Dr. Joel Mishalow, Ph.D.,  
7 but Christina has undermined that treatment and I have been excluded. Per Christina's request and after  
8 Christina provided Dr. Mishalow a copy of my motion, Dr. Mishalow refuses to provide any information  
9 regarding Mia's treatment scheduled by Christina. Furthermore, I am not able to schedule regular  
10 appointments during my timeshare arrangement.  
11

12           27.     Given the continuous and unresolved issues with Christina's control of the evaluation  
13 process and Mia's treatment, I believed Mia's clothing issues would remain undiagnosed and untreated.  
14 Christina was too concerned with scheduling the appointments, covering up her bad acts by preventing a  
15 qualified psychologist from evaluating Mia alone and sharing relevant information with me, and fixation  
16 with her role as "super mom" by getting me to accept her solution to Mia's clothing issues ("reward  
17 chart system" using stickers and prizes downloaded from supernannies.com), I decided to act in the best  
18 interest of Mia. I engaged Dr. Melissa Kalodner<sup>4</sup> to evaluate Mia's clothing issues and assist Amy and I  
19 with Mia's emotional issues. Dr. Kalodner, a clinical child psychologist, evaluated Mia alone (which  
20 Mia did not object to) for five (5) fifty (50) minute sessions over the course of several weeks and  
21 concluded that Mia's clothing issues are NOT caused by an obsessive compulsive disorder. Dr.  
22 Kalodner also consulted with a neurological psychologist and concluded that Mia's clothing issues are  
23 likely the result of a sensory processing disorder. Dr. Kalodner referred me to Dr. Tania Stegen-Hanson,  
24 a pediatric occupational therapist, who evaluated Mia's clothing issues and concluded that Mia suffers  
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28     <sup>4</sup> Christina has expressed no issues concerning Dr. Kalodner's competence.

1 from a mild sensory processing disorder. Dr. Stegen-Hanson desires to treat Mia for this condition and  
2 is very optimistic about her success. Mia's clothing issues may be resolved in a few months of  
3 treatment.  
4

5 28. Dr. Kalodner independently verified that Mia communicated (among other items) the  
6 following during her evaluation:

7 (a) "I want to spend more time with my Dada but Mommy says we can't change the rules."

8 (b) "I want to spend more time with my Dada but the judge won't let me."

9 (c) "Amy was married to James."  
10

11 (d) "Momma does not like Amy."

12 (e) "Momma says Amy is bad, but I like her."

13 (f) "Momma doesn't say anything about Dada and Amy anymore."  
14

15 To date, I did not want to involve Dr. Kalodner in the litigation. The first and second statements appear  
16 to be Christina's explanations to Mia why she cannot spend more time with Mitchell. Apparently, Mia  
17 has asked Christina to spend more time with Mitchell but she has refused to allow Mia to do so. The  
18 third statement confirms that Mia is aware that Amy was married to "James," which fact I allege  
19 Christina communicated to Mia. The fourth and fifth statements make it clear that Mia is aware of  
20 Christina's feelings towards Amy and that Christina has actually communicated bad things to Mia about  
21 Amy. And finally, the sixth statement seems to indicate that Christina has stopped disparaging Amy and  
22 I (probably as a result of the litigation) and that she made this statement to Mia with the hope that Mia  
23 will repeat it if ever asked about Christina's bad acts.  
24

25 29. Christina can (and nothing is preventing her from doing so) facilitate telephonic  
26 communication with the children. Christina voluntarily chooses not to do so.  
27  
28

1           30. I am willing to modify the manner in which the parties take vacation time in the future to  
2 accommodate Christina's desire to take vacation in one (1) week blocks.

3           31. I am not the source of the conflict or hostility between the parties. The fact that Christina  
4 claims that the parties have been able to attend several school functions since the August 7, 2009  
5 stipulation and order without incident as evidence that Christina is the innocent party and I am the one  
6 "who perpetuates animosity" is inconsistent with the facts (including the emails Christina attaches to her  
7 opposition and counter-motion). At these functions, Christina and I do not interact at all.

8           32. At Ethan's last doctor's appointment that I attended,<sup>5</sup> at its conclusion, Christina refused  
9 to pay any portion of the co-payment or costs for x-rays when the medical assistant presented Christina  
10 with the bill, she left the bill on the examining table after reviewing it, exited the doctor's office and  
11 followed me into the parking lot (after I paid the bill) shouting at me. Christina told me that I was a  
12 "bad person" for asking her to pay anything. Under these circumstances, I would like to avoid such  
13 situations and would prefer not to attend routine doctor visits because of the risk of Christina behaving  
14 badly and traumatizing the children.

15           33. I do not argue that Mia's recent reluctance to return to Christina's home after my  
16 timeshare is a substantial change in circumstances. I simply point out that Mia desires to spend more  
17 time with me. I concede that Mia has expressed this fact in the past. The affidavit of my sister who is  
18 responsible for picking up and dropping off the children supports this fact. Despite Christina's  
19 assertions, my sister is not financially motivated in any way to commit perjury by supplying a false  
20 affidavit.

21           34. I visited Mia daily while Mia attended Temple Beth Shalom during the 2007-2008 school  
22 year. I also visited Mia and Ethan daily while they attended the same school for the 2008-2009 school  
23 year.

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<sup>5</sup> Christina indicates that Ethan has "knocked knees," but Ethan's orthopedic pediatrician has diagnosed Ethan with a slightly rotated thigh bone that will likely require surgery when Ethan reaches adolescence.

1 year. Ethan's teachers for the current school year were Mia's same teachers for the 2007-2008 school  
2 year. Now, Ethan's teachers refuse to allow me to visit Ethan. Christina alleges that it is because Ethan  
3 has "fundamental social delays." Ethan's teachers claim that it is their "discretion" and they prefer not  
4 to have visitors during the school day. Notwithstanding these very different explanations, I have picked  
5 Ethan up from school on more than one occasion and discovered that Christina was present with Ethan  
6 eating lunch or playing with him in the classroom.

8 35. At the beginning of Mia's current school year at Alexander Dawson, the school  
9 informed me that I could visit Mia at school (but not until October 1, 2009). To date, the school has not  
10 permitted me to visit Mia. No explanation has been provided.

12 36. Mia's and Ethan's teachers are aware of Mitchell's motion. Apparently, Christina  
13 provided copies to them.

14 37. I paid my share of the costs and expenses of the children's private school education for  
15 the 2008-2009 and 2009-2010 school years.

17 38. Christina has never communicated any concern to me about the children's attendance  
18 record at school. The children's attendance at pre-school is not required. I, however, take the children  
19 to school during my timeshare except when they are ill or the children have conflicting activities or  
20 appointments. Christina has not taken the children to school every day either.

22 39. Christina desired to take the children out of town during the week of Thanksgiving for  
23 this year, and Ethan would have missed several days of school. It is not clear why Christina is permitted  
24 to plan such trips, but when I notified Christina that I intended to take the children out of town on  
25 December 11, 2009 and the children would not be able to attend school that day, it is suddenly a  
26 problem. I have properly notified Christina of my intention to take the children out of town pursuant to  
27 the Court's minute order on the matter, and I intend to provide an itinerary for the upcoming trip as  
28

1 required by the MSA. Christina's complaint that she has not received an itinerary for the planned trip is  
2 meritless at this juncture.

3 FURTHER, AFFIANT SAYETH NOT.  
4

5  
6   
7 MITCHELL DAVID STIPP

8 Subscribed and sworn before me this 7th  
9 day December, 2009.

10   
11 NOTARY PUBLIC in and for  
12 the State of Nevada



## **EXHIBIT B**



November 9, 2009

Dr. Joel Mishalow  
6000 W Rochelle Ave # 300  
Las Vegas, Nevada 89103

**Re: Mia Stipp**

Dear Dr. Mishalow:

I received your voicemail message this morning. We spoke a few weeks ago. During that telephone conversation, you indicated to me that you would schedule an appointment with me prior to Mia's next session on November 3, 2009 to discuss the "reward chart system" Christina Stipp has been utilizing to address Mia's clothing issues. I never heard from you. Your assistant called me on the morning of November 3rd and left a voicemail message to schedule an appointment. I returned the call and left a message. Your assistant called the next day and left another message. I returned the call and left another message. I finally spoke with your assistant on November 5, 2009. She asked me to schedule an appointment and bring Mia. I informed her that I thought I would be meeting with you alone to discuss Christina's "reward chart system." During the call, your assistant indicated that you did not have any available appointments during the week of November 9th and that she was not actually certain whether you wanted me to bring Mia. She told me that she would confirm whether I should bring Mia to the appointment and call me back. Your assistant called me later that day and left a voicemail that I needed to call Christina and ask her when I can bring Mia. She also left another message the next day.

To be clear, I absolutely want to be involved with Mia's treatment. I indicated this fact on your voicemail this morning (and at our initial consultation and during our past

telephone calls). However, I am not able to coordinate a time to bring Mia and meet with you during Christina's timeshare. Based on my timeshare, Mia's schedule and the upcoming Thanksgiving holiday, I am able to bring Mia on Friday, December 11, 2009. Please call me and advise if this day works for you. Any time on that day would be acceptable. I am also willing to meet with you alone any day and time to discuss Mia's treatment.

Best Regards,

A handwritten signature in black ink, appearing to read "Mitchell Stipp". The signature is written in a cursive, flowing style.

Mitchell Stipp

## Mitchell Stipp

---

**From:** Mitchell Stipp [mitchell.stipp@yahoo.com]  
**Sent:** Tuesday, November 10, 2009 12:55 PM  
**To:** 'Christina Calderon-stipp'  
**Subject:** RE: Dr. Mishalow  
**Attachments:** Letter to Dr. Mishalow.pdf

I received your message below.

When I met with Dr. Mishalow initially, I expressed to him my concerns regarding Mia's clothing and anger issues. I communicated to him very specifically the statements you have made to Mia (as detailed in my motion and in numerous emails to you) and that I believe that your conduct has caused Mia emotional trauma (which manifests itself as anger). I also told him that I was concerned about you manipulating the evaluation and treatment process. Remember---you refused to allow Mia to see Dr. Kalodner not because of her hourly rate (\$200 vs. \$175 for Dr. Mishalow) but because I scheduled the first appointment and she wanted to evaluate Mia without our presence. Dr. Mishalow assured me that I would be involved in the treatment process. Until today, I felt excluded.

You and Mia have met with Dr. Mishalow approximately 3 times. At no time did you invite me to attend any such appointment (and in one instance I was not even aware of it). You have scheduled, attended and participated in all of Mia's appointments. Dr. Mishalow has only invited me to attend the last appointment to discuss the "reward chart system" you are using to address Mia's clothing issues. I told Dr. Mishalow that I preferred not to meet with him and you in front of Mia to discuss this technique. Due to the level conflict and hostility that has existed in the past between us, I was concerned that any conflict, argument or outburst in Mia's presence could impact Mia. Therefore, I asked Dr. Mishalow to meet with me separately to discuss the "reward chart system." This appointment did not occur until today. Attached is the letter I sent to Dr. Mishalow regarding the scheduling of this appointment.

You appear to be concerned about Mia's clothing issues and have simply ignored Mia's anger problems. The "reward chart system" may be a good technique to begin to address Mia's clothing issues. However, the source of the problem is still unknown (whether it is obsessive compulsive or sensory integration disorder or something else). It should be identified and treated. While I believe that Mia has made progress (i.e., she puts her school uniform on) since your use of the chart and with my own positive reinforcement techniques, Mia still wears clothes (including underwear, shoes and school uniform) that are several sizes too large. Furthermore, this technique will not address Mia's anger issues.

At my meeting with Dr. Mishalow today, we discussed the chart, Mia's anger issues, and the best way to schedule appointments to ensure my participation. Dr. Mishalow also informed me that you provided him a copy of my motion and we discussed that as well. I suggested to Dr. Mishalow that you can schedule ALL of the appointments provided we alternate attendance/participation in them. It is too difficult to coordinate with you because you always have too many conditions (e.g., not during school, only during my timeshare, or only if you can bring Mia if during your timeshare, etc.). With respect to the appointments Dr. Mishalow desires my attendance/participation, I will bring Mia during my timeshare and pick up and drop off Mia at your house (or any location you determine) if the appointment is scheduled during your timeshare. I do not think Mia will be comfortable expressing her feelings (and the source of the anger) if you take her to the appointments, participate in them, or wait in the lobby or in the parking lot. I hope you understand and can accommodate my request.

I was able to schedule an appointment with Dr. Mishalow at noon on Friday, November 13th.

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

From: Christina Calderon-stipp [mailto:ccstipp@gmail.com]  
Sent: Tuesday, November 10, 2009 10:51 AM  
To: Mitchell Stipp  
Subject: Dr. Mishalow

Mitch,

As you are well aware, you have always been welcome to attend any session that I have made with dr. Mishalow. Confiem this with Dr. M. It was one of the principles I insisted on prior to consenting to his treatment of MIA. I have never insisted on exclusive treatment of and with her. In fact, MIA's first appointment was almost solely with MIA while I waited outside.

At MIA's second appointment with dr. M two weeks ago, he expressed his desire that you join us at her third appointment. He wanted us all to share in mia's amazing progress. He informed me that you refused to see him if I am present.

Your recently-filed motion contains alarming statements that I have only heard for the first time in the court document you filed without first speaking to me about MIA's behavior when she is with you and your concerns about my "manipulating" her treatment.

I will address those concerns with the court, but in the meantime, I urge you to accept dr. M as well as my entreaties to become part of the process of helping MIA.

At dr. M's request, I sent him a letter on october 26th describing MIA's reward chart system that I implemented months ago, have told you repeatedly about, and which has helped achieve great results for MIA that I have informed you about, her teachers and dr. M. Dr M asked me to do so so that he could speak to you separately about it and go over what I've been doing with MIA and how it's been helping.

Dr. M's assistant is working to get you a Friday appt with MIA. If that is not available, I would be more than happy to take her to dr.

M's office for you to take her in and exclude me if you insist.

I can wait in the parking lot for you and you can take her in alone.

Also, please try to make the appointment for a non-school hour. I have an appointment set for next wed the 18th that you can have if nothing else is available. It's at 12:30.

Thanks,  
Christina

Sent from my iPhone

Via Facsimile

December 2, 2009

Dr. Joel Mishalow  
6000 W Rochelle Ave # 300  
Las Vegas, Nevada 89103

**Re: Mia Stipp**

Dear Dr. Mishalow:

I spoke with your assistant yesterday. During our last visit, I inadvertently scheduled an appointment for December 18, 2009. Unfortunately, I do not have Mia in my care during that day. Therefore, based on Mia's schedule, the holidays, and my timeshare arrangement, the next time we can meet is Friday, January 8, 2010. I scheduled an appointment at 11:30 am.

When we met on November 10, 2009, we discussed the best way to include me in Mia's treatment. I provided to you the following suggestion: Christina can schedule all appointments, provided, that Christina and I alternate attending and/or participating in Mia's sessions and that I am permitted during my sessions with Mia to pick up and drop off Mia if the appointments occur during Christina's timeshare. As you are aware, Christina refused to accept this suggestion. Per your request, I provided to you a copy of her email and my response. Given your schedule, my timeshare, the holidays, Mia's school and other activities, I am not able to schedule appointments for Mia on a regular basis. In fact, approximately six (6) weeks will pass between our last appointment on November 27, 2009 and January 8, 2010.

During my conversation with your assistant, I also requested information regarding Mia's scheduled appointments with Christina. Your assistant informed me that she could not provide me this information and would have to speak to you. After speaking with you, she called me

back and informed me that all information concerning Mia's treatments scheduled by Christina is now confidential due to pending litigation.

Under these circumstances, I think it is best that I seek care for Mia from another provider. There is no point to schedule appointments with you for Mia if I cannot do so regularly and I do not have access to any information concerning Mia's treatments scheduled by Christina. However, at this point, I do not object to you continuing to see Mia if Christina desires you to do so.

Best Regards,

A handwritten signature in cursive script, appearing to read "Mitchell Stipp".

Mitchell Stipp

cc: Christina Stipp (via email)

## **EXHIBIT C**

**Melissa F. Kalodner, Psy.D., RPT-S, BCPC**  
**Clinical Child Psychologist and Registered Play Therapist - Supervisor**  
**2904 W. Horizon Edge Parkway, Suite 100 - Henderson, NV 89052**  
**Office (702) 310-8787 - Fax (702) 310-8788**

---

December 4, 2009

Sent Via Facsimile, (702) 304-0275

Mitchell Stipp  
2055 Alcora 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 this 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) "Mommy doesn't like Amy."
- (5) "Mommy says Amy is bad, but I like her."
- (5) Most recently, Mia has stated, "Mommy 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

## **EXHIBIT D**

**Mitchell Stipp**

---

**Subject:**

**FW:**

**From:** Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
**Sent:** Wednesday, October 28, 2009 5:54 PM  
**To:** 'Christina Calderon-Stipp'  
**Subject:** RE: Resolution of Vacation 2008 Issue

I received your email below and was not aware that a further response was required given my detailed explanation provided to you and your attorney, Shawn Goldstein. As you may know, Shawn never responded as he promised.

I do not want to lose time with the children because of your misunderstanding of the term "consecutive." Therefore, in the interest of compromise, I am willing to consider altering the arrangement for next year and the future via stipulation. As far as this year, I am willing to accommodate your trip if you take it in November and provide me make up time tacked onto the end of my visitation scheduled for the November 12-15 weekend. I hope this is satisfactory. With respect to December, I have family coming to town and your trip conflicts.

Please consider this offer and let me know if you decide to file a motion. I would like to try to work this issue out but understand that it may not be possible.

**From:** Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
**Sent:** Wednesday, October 28, 2009 4:10 PM  
**To:** Mitchell Stipp  
**Subject:** Resolution of Vacation 2008 Issue

Mitchell,

I never heard from you regarding my last email sent to you on October 2, 2009, regarding the difference of opinion we have regarding my remaining vacation time with the children for 2008. Perhaps your silence reflects agreement/acquiescence with my position? I am hopeful that it does and/or that we can reach a resolution on the issue without resort to judicial intervention. If so, please advise and we can sign a stipulation clarifying that we can each take up to two weeks of vacation with the children each year, in increments of one-week blocks, either consecutively or not.

Please be advised that I would like to take my second week of vacation with the children either Friday November 20, 2009, through Thursday, November 26, 2009 (subject to holiday visitation) OR Friday December 18, 2009, through Thursday December 24, 2009 (subject to holiday visitation). I would like to take them to Anaheim, California, to visit family and Disneyland.

Thanks,  
Christina

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

**From:** Shawn M Goldstein, Esq. [mailto:smg@jimmersonhansen.com]

Sent: Wednesday, August 26, 2009 5:49 PM  
To: Mitchell Stipp  
Cc: rsmith@radfordsmith.com  
Subject: RE: Stipp v. Stipp

Mitch,

Thank you for your email. I will address the merits of it upon my receipt of confirmation from Radford that he has indeed withdrawn as your counsel of record.

Regards,  
Shawn

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

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Wednesday, August 26, 2009 5:40 PM  
To: Shawn M Goldstein, Esq.  
Cc: rsmith@radfordsmith.com  
Subject: Stipp v. Stipp

Shawn: I received a copy of your letter to Radford Smith dated August 26, 2009 attached to this email. Please be advised that I have asked Radford Smith to withdraw as my counsel. He was directed to send you an email notifying you of the same and to file a notice of withdrawal several weeks ago. If this has not been done, please be advised that Radford is not authorized to respond to your correspondence or discuss with you any matters and is not authorized to accept service (including any motion for clarification that may be filed as referenced in your letter). I personally will be handling this case and you should direct all communications, motions, etc. to me.

I reviewed your letter and disagree with your interpretation of the marital settlement agreement ("MSA") as it relates to vacation time. While the parties are permitted to have 2 weeks vacation per year, the language is very clear that this vacation time is defined as 2 consecutive weeks. However, nothing in the MSA or otherwise would prohibit a party from taking less time if the other party agreed. Therefore, you are wrong that the parties can take vacation time intermittently. Under these circumstances, Christina could take vacation time every weekend for several weeks just so I could not see the children. You would clearly have this argument if the language in the MSA failed to contain the word "consecutive" between the words "two" and "weeks." That is not the case here. Your interpretation of the language is not reasonable (or fair given Christina's propensity for taking time from me with the children). It is calculated to satisfy your client's desires to exercise her vacation time at her will and not in accordance with the MSA.

Your letter attaches email correspondence between Christina and me. The email chain attached fails to include the fact that your client actually

requested 2 consecutive weeks of vacation time (but later decided to only take one week). On Tuesday, June 16, 2009 at 7:38 pm, Christina emailed me the following: "I will be exercising my two-week vacation with the children from July 13, 2009 to July 26, 2009. I will forward an itinerary of travel as soon as I finalize plans." Later that month, on Sunday, June 28, 2009 at 5:34 pm, Christina emailed me the following: "We'll be staying at 5645 Wigeon Street SE, Salem, Oregon from July 13th-20th. We will be flying Alaska Airlines. We will return to Las Vegas on July 20th. Note that I will only be taking one week vacation instead." I responded to Christina's email on Sunday, June 28, 2009 at 6:08 pm as follows: "Please clarify your last sentence regarding your vacation plans. You previously gave notice of your intention to take 2 weeks. Are you indicating that I should plan to have the kids on the 24th through 26th of July?" Christina responded on Sunday, June 28, 2009 at 6:13 pm "No. I will be back in town on the 20th. Normal visitation applies thereafter." Based on this communication, I assumed that while Christina and the children would be in Oregon for only one week, she would be keeping the children for two weeks. I did not know based on our email correspondence that I would have visitation of the children until Mia called me at 6:15 on Thursday, July 23rd to pick her and Ethan up.

It is interesting to note that Christina argues that she is entitled to another week of vacation time. Christina had the children until 6:15pm on Thursday, July 23rd. She purposely ended her vacation time on July 20th which ordinarily happens to be the first full day of her normal visitation time. So, I ask you: did Christina forego a week of visitation or just a few days? Conveniently, it is her position that it is a week, but it matters because she apparently wants another seven days of my time with the children. Regardless of your view, she had the children from Sunday at 6pm on July 12, 2009 until 6:15pm on July 23, 2009 (approximately 11 days). This is not an issue of Christina failing to receive adequate time with the children.

Your letter also fails to disclose that last week Christina offered to forego holiday visitation during Labor Day weekend if I returned the children early from vacation at 6pm on Thursday, August 20, 2009 and allowed her to keep the children through the weekend. This was the additional time she requested as vacation time. To accommodate her, I did so (based in no small part on the make-up time).

If Christina would like another week of "vacation" time, I would be happy to consider her request; however, it must come with an offer of make-up time.

I expect this letter adequately addresses the matters raised by your letter.

I will not agree to any stipulation. If your client feels the need to file a motion for clarification, I look forward to receiving it.

Best Regards,  
Mitchell Stipp  
2055 Alcova Ridge Drive  
Las Vegas, Nevada 89135  
702-378-1907 (telephone)  
702-304-0275 (facsimile)  
mitchell.stipp@yahoo.com

**From:** Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
**Sent:** Thursday, August 20, 2009 6:03 PM  
**To:** 'Christina Calderon-Stipp'  
**Subject:** RE: Labor Day Offer

Per our conversation yesterday, this offer is acceptable.

**From:** Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
**Sent:** Tuesday, August 18, 2009 10:16 PM  
**To:** Mitchell Stipp  
**Subject:** Labor Day Offer

Mitch,

As we discussed earlier today, I sent you a text message with the following request: Please consider returning the children to me on Thurs. night, Aug. 20, at 6pm (through the weekend) in exchange for my Labor Day weekend time this year, Fri. Sept. 4 @ 6pm until Monday Sept. 7th at 6pm. I would like this time in order to take Ethan to his parent/teacher orientation on Friday the 21st, and so that I can spend time with the children prior to their start of the new school year.

Please let me know your decision as soon as possible so that I can make arrangements.

--Christina

---

**From:** Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
**Sent:** Friday, August 07, 2009 9:30 AM  
**To:** 'Christina Calderon-Stipp'  
**Subject:** RE:

I received your notice below. As I understand it, vacation time occurs 2 consecutive weeks per year pursuant to our marital settlement agreement. You previously gave notice of your 2 week vacation. While you later notified me that you were only taking 1 week in Oregon, you waived the additional week. Therefore, the time below occurs during my normal visitation schedule and I will have the children.

---

**From:** Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
**Sent:** Sunday, August 02, 2009 5:19 PM

**To:** Mitchell Stipp

**Subject:** Re:

Mitchell,

I will be taking the children from 6pm on August 21, 2009 until 6pm on August 23, 2009 for vacation. I will provide you an itinerary of out-of-state travel plans, if any, 15 days prior to such travel.

--Christina

Mr. Smith:

Attached is correspondence of today's date regarding the above referenced matter. Please contact our office if you have any questions. Thank you,

*Suzanne*

*Suzanne Allison*

*Legal Assistant to Shawn Goldstein, Esq. and*

*James J. Jimmerson, Esq.*

*JIMMERSON HANSEN P.C.*

*415 So. Sixth Street, Suite 100*

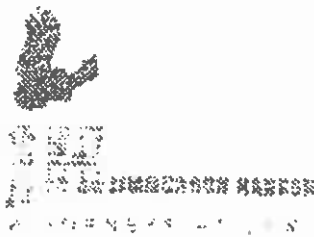
*Las Vegas, NV 89101*

*(702) 388-7171 (main)*

*(702) 380-6412 (fax)*

*sa@jimmersonhansen.com <<mailto:smg@jimmersonhansen.com>>*





STANDARD FORM NO. 64  
OFFICE OF THE ATTORNEY GENERAL  
STATE OF NEW YORK  
ALBANY, N.Y. 12242-0500  
TELEPHONE (518) 474-2000  
FACSIMILE (518) 474-2001  
WWW.STATE.NY.GOV

August 26, 2009

Via Facsimile to (702) 990-6456 and  
email to [rsmith@radfordsmith.com](mailto:rsmith@radfordsmith.com)

Radford J. Smith, Esq.  
Law Office of Radford J. Smith, Chtd.  
64 N. Pecos Road, Ste. 700  
Henderson, NV 89074

Re: Stipp v. Stipp

Dear Rad:

I am writing to clarify the terms of the MSA as construed by your client. Christina desired to exercise vacation time with the children from August 21-23, 2009. When she timely advised Mitch of this, he responded that he believed Christina exercised her vacation time in Oregon for one (1) week and because she did not take the other week, it was waived. See enclosed email.

As I read the MSA, it states that the parties are permitted to have the children for two (2) consecutive weeks. Nowhere does it state that the parties are required to have the children for (2) weeks, nor does it provide any type of waiver provision if two (2) consecutive weeks are not exercised. Therefore, Christina respectfully asserts that she is entitled to an additional week of vacation with the children provided that she affords Mitch the appropriate notice; she did not waive the remainder of her vacation time as Mitch claims.

Please advise if your client is amenable to this reasonable interpretation. If so, I suggest that we execute a stipulation and order to that effect. If not, we will file the appropriate Motion seeking clarification.

Thank you for your attention to this matter and as always, if you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

JIMMERSON HANSEN, P.C.

  
Shawn M. Goldstein, Esq.

cc: Christina Calderon-Stipp

Standard Correspondence Covering Cover 109 10 10 10 to R. Smith and

----- Forwarded message -----

From: Mitchell Stipp <[mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)>  
Date: Fri, Aug 7, 2009 at 9:29 AM  
Subject: RE:  
To: Christina Calderon-Stipp <[xcstipp@gmail.com](mailto:xcstipp@gmail.com)>

I received your notice below. As I understand it, vacation time occurs 2 consecutive weeks per year pursuant to our marital settlement agreement. You previously gave notice of your 2 week vacation. While you later notified me that you were only taking 1 week in Oregon, you waived the additional week. Therefore, the time below occurs during my normal visitation schedule and I will have the children.

-----  
From: Christina Calderon-Stipp [<mailto:xcstipp@gmail.com>]  
Sent: Sunday, August 02, 2009 5:19 PM  
To: Mitchell Stipp  
Subject: Re:

Mitchell,

I will be taking the children from 6pm on August 21, 2009 until 6pm on August 23, 2009 for vacation. I will provide you an itinerary of out-of-state travel plans, if any, 15 days prior to such travel.

--Christina

On Wed, May 20, 2009 at 3:20 PM, Mitchell Stipp <[mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)> wrote:

This email will serve to notify you of my intention to have the kids for vacation from 6pm on August 7, 2009 until 6pm on August 21, 2009. I will provide you an itinerary of any travel plans on or before any date of travel out of state.

## **EXHIBIT E**

**District Court**  
**FAMILY DIVISION**  
**CLARK COUNTY, NEVADA**

PLAINTIFF

-VS-

DEFENDANT

CASE NO. \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

**NOTICE OF SEMINAR COMPLETION - EDCR 5.07**

PLEASE TAKE NOTICE THAT

MITCHELL D. STIPP  
(Name)

SUCCESSFULLY COMPLETED THE MANDATORY DIVORCE EDUCATION SEMINAR ON

12/01/09

(Date)

PALO VERDE  
CHILD & FAMILY SERVICES  
2801 S. VALLEY VIEW BLVD  
SUITE #10  
LAS VEGAS, NV 89102

  
PROGRAM REPRESENTATIVE

DATE

12/01/09

DISTRIBUTION: WHITE - Clerk CANARY - Party PINK - Program

C:\pctm\wpd

**REPLY**  
**EXHIBIT “D”**

1 **ORDER**

2 RADFORD J. SMITH, CHARTERED  
3 RADFORD J. SMITH, ESQ.  
4 Nevada Bar No. 002791  
5 64 N. Pecos Road, Suite 700  
6 Henderson, Nevada 89074  
7 Office: (702) 990-6448  
8 Facsimile: (702) 990-6456  
9 rsmith@radfordsmith.com  
10 Attorney for Defendant, Mitchell Stipp

FILED

JAN 13 9 07 AM '10

CLERK OF THE COURT

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 CHRISTINA STIPP,

11 Plaintiff,

12 v.

13 MITCHELL STIPP,

14 Defendant.

CASE NO.: D-08-389203-Z

DEPT NO.: O

FAMILY DIVISION

16 **ORDER FROM PLAINTIFF'S MOTION TO CONFIRM PARTIES AS JOINT PHYSICAL**  
17 **CUSTODIANS AND TO MODIFY TIMESHARE ARRANGEMENT...CHRISTINA STIPP'S**  
18 **OPPOSITION AND COUNTERMOTION TO SET ASIDE AUGUST 7, 2009 STIPULATION**  
19 **AND ORDER, GRANT DISCOVERY, PARTITION UNDISCLOSED MARITAL ASSETS AND**  
20 **SANCTIONS**

21 DATE OF HEARING: December 08, 2009

22 TIME OF HEARING: 10:00 a.m.

23 This matter coming on for hearing on the motions and counter motions identified above,  
24 Defendant being present and represented by his counsel RADFORD J. SMITH, ESQ., of RADFORD J.  
25 SMITH, CHARTERED, and Plaintiff being present in Proper Person, the court having heard the  
26 arguments of counsel and Plaintiff, and having reviewed the pleadings and papers on file in this matter,  
27 FINDS AND ORDERS AS FOLLOWS:  
28

1           1.       Based upon the allegations set forth in the Motions and Countermotions filed herein, the  
2 court hereby orders that a court appointed expert, Dr. Paglini, shall perform an Outsource Custody  
3 Evaluation with recommendations. A return hearing to review the findings and recommendations of Dr.  
4 Paglini is set for March 9, 2010 at 11:00 a.m. in this court. Defendant shall pay for the evaluation, but if  
5 the report comes back negative toward Plaintiff, she will be required to reimburse Defendant the amount  
6 paid.  
7

8           2.       The court shall set Defendant's motions regarding modification or change of custody of  
9 the parties' minor children for evidentiary hearing May 6, 2010, at 2:00 p.m. in this court should such a  
10 hearing continue to be necessary after review of the findings of the court appointed assessment  
11 professional, Dr. Paglini.  
12

13           3.       Court advised and admonished the parties to work together to a mutually acceptable  
14 therapist for Mia. If they cannot work together, they may each obtain their own therapist for Mia.  
15

16           4.       Defendant's request for additional visitation is denied.

17           5.       All prior orders of the court shall remain in full force and effect.

18           6.       Each party shall bear their own attorney's fees and costs associated with the motions and  
19 countermotions filed herein.

20           7.       Court will review Plaintiff's Countermotion and Reply regarding the partition of omitted  
21 assets and will issue a separate Order regarding the issues raised therein.  
22

23           **Mandatory Provisions:** Pursuant to NRS 125C.200 (formerly NRS 125A.350), the parties, and  
24 each of them, are hereby placed on notice that if either party intends to move their residence to a place  
25 outside the State of Nevada, and take the minor child with them, they must, as soon as possible, and  
26 before the planned move, attempt to obtain the written consent of the other party to move the minor  
27 children from the State. If the other party refuses to give such consent, the moving party shall, before  
28

1 they leave the State with the children, petition the Court for permission to move with the children. The  
2 failure of a party to comply with the provision of this section may be considered as a factor if a change  
3 of custody is requested by the other party. This provision does not apply to vacations outside the State  
4 of Nevada planned by either party.  
5

6 The following statutory notices relating to custody/visitation of the minor children are applicable  
7 to the parties herein:

8 The parties, and each of them, shall be bound by the provisions of NRS 125.510(6) which state,  
9 in pertinent part:

10  
11 PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,  
12 CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF  
13 THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS  
14 PROVIDED IN NRS 193.130. NRS 200.359 provides that every person  
15 having a limited right of custody to a child or any parent having no right  
16 of custody to the child who willfully detains, conceals or removes the  
17 child from a parent, guardian or other person having lawful custody or a  
18 right of visitation of the child in violation of an order of this court, or  
19 removes the child from the jurisdiction of the court without the consent of  
20 either the court or all persons who have the right to custody or visitation is  
21 subject to being punished by a category D felony as provided in NRS  
22 193.130.

23 Pursuant to NRS 125.510(7) and (8), the terms of the Hague Convention of October 25, 1980,  
24 adopted by the 14th Session of The Hague Conference on Private International Law are applicable to the  
25 parties:  
26

27 "Section 8. If a parent of the child lives in a foreign country or has significant commitments in a  
28 foreign country:

(a) The parties may agree, and the Court shall include in the Order for  
custody of the child, that the United States is the country of habitual  
residence of the child for the purpose of applying the terms of the Hague  
Convention as set forth in Subsection 7.

(b) Upon motion of the parties, the Court may order the parent to post  
a bond if the Court determines that the parents pose an imminent risk of  
wrongfully removing or concealing the child outside the country of  
habitual residence. The bond must be in an amount determined by the



1 Court and may be used only to pay for the cost of locating the child and  
2 returning him to his habitual residence if the child is wrongfully removed  
3 from or concealed outside the country of habitual residence. The fact that  
4 a parent has significant commitments in a foreign country does not create  
5 a presumption that the parent poses an imminent risk of wrongfully  
6 removing or concealing the child."

7 The State of Arizona in the United States of America is the habitual residence of the parties'  
8 children.

9 The parties, and each of them, are hereby placed on notice that in the event either party is  
10 ordered to pay child support to the other, that, pursuant to NRS 125.450, a parent responsible for paying  
11 child support is subject to NRS 31A.010 through NRS 31A.340, inclusive, and Sections 2 and 3 of  
12 Chapter 31A of the Nevada Revised Statutes, regarding the withholding of wages and commissions for  
13 the delinquent payment of support, that these statutes and provisions require that, if a parent responsible  
14 for paying child support is delinquent in paying the support of a child that such person has been ordered  
15 to pay, then that person's wages or commissions shall immediately be subject to wage assignment and  
16 garnishment, pursuant to the provisions of the above-referenced statutes.

17 The parties acknowledge, pursuant to NRS 125B.145, that an order for the support of a  
18 child must, upon the filing of a request for review by:  
19

20 (a) The welfare division of the department of human resources, its  
21 designated representative or the district attorney, if the welfare division or  
22 the district attorney has jurisdiction in the case; or,

23 (b) a parent or legal guardian of the child,

24 shall be reviewed by the court at least every 3 years pursuant to this section to determine whether the  
25 order should be modified or adjusted. Further, if either of the parties is subject to an order of child  
26 support, that party may request a review pursuant the terms of NRS 125B.145. An order for the support  
27 of a child may be reviewed at any time on the basis of changed circumstances.  
28

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall  
2 submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate form  
3 to the Court and the Welfare Division of the Department of Human Resources within ten days from the  
4 date this order is filed. Such information shall be maintained by the Clerk in a confidential manner and  
5 not part of the public record. The parties shall update the information filed with the Court and the  
6 Welfare Division of the Department of Human Resources within ten days should any of the information  
7 become inaccurate.  
8

JAN 11 2010

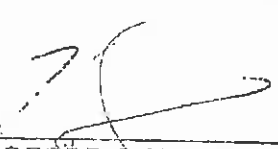
9 IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

10 **FRANK P. SULLIVAN**

11 \_\_\_\_\_  
12 DISTRICT COURT JUDGE

13 *Submitted by:*

14 RADFORD J. SMITH, CHARTERED

15   
16 \_\_\_\_\_  
17 RADFORD J. SMITH, ESQ.  
18 Nevada State Bar No. 002791  
19 64 N. Pecos Road - Suite 700  
20 Henderson, Nevada 89074  
21 (702) 990-6448  
22 Attorney for Plaintiff  
23  
24  
25  
26  
27  
28

1 RADFORD J. SMITH, CHARTERED  
2 RADFORD J. SMITH, ESQ.  
3 Nevada State Bar No. 002791  
4 64 N. Pecos Rd., Suite 700  
5 Henderson, Nevada 89074  
6 T: (702) 990-6448  
7 F: (702) 990-6456  
8 Email: rsmith@radfordsmith.com

Electronically Filed  
Mar 23 2011 04:48 p.m.  
Tracie K. Lindeman

6 MITCHELL D. STIPP, ESQ.  
7 Nevada Bar No. 007531  
8 7 Morning Sky Lane  
9 Las Vegas, Nevada 89135  
10 T: (702) 378-1907  
11 F: (702) 483-6283  
12 Email: Mitchell.Stipp@yahoo.com

11 Attorneys for Respondent/Cross-Appellant Mitchell Stipp

13  
14 **IN THE SUPREME COURT OF**  
15 **THE STATE OF NEVADA**

16 CHRISTINA CALDERON STIPP,  
17 Appellant/Cross-Respondent,  
18 v.  
19 MITCHELL DAVID STIPP  
20 Respondent/Cross-Appellant.

SUPREME COURT CASE NO.: 57327  
DISTRICT COURT CASE NO.: D389203  
DEPT. NO.: M

21 **REPLY TO ORDER TO SHOW CAUSE**

22  
23 On February 22, 2011, the Nevada Supreme Court issued an order to show cause why the cross-  
24 appeal of Respondent/Cross-Appellant, Mitchell David Stipp ("Respondent/Cross-Appellant"), should  
25 not be dismissed for lack of jurisdiction. Respondent/Cross-Appellant by and through his attorney  
26 Radford J. Smith, Esq., of the firm of Radford J. Smith, Chartered, hereby submits Respondent/Cross-  
27 Appellant's reply as set forth below.  
28

I.

**STATEMENT OF FACTS**

Respondent/Cross-Appellant filed his notice of cross-appeal on December 15, 2010 of the written decision of Judge Frank Sullivan of Department O, Eighth Judicial District, Clark County, State of Nevada, which was entered by the district court on November 4, 2010. This order is attached hereto as Exhibit "A" (the "Appealed Order"). The Appealed Order confirmed the parties as joint physical custodians of their children and granted Respondent/Cross-Appellant additional custodial time equal to eight hours on the third Friday of each month. *See* Appealed Order at 17-19. The district court concluded in the Appealed Order that the grant of additional timeshare would provide Respondent/Cross-Appellant 12 additional days of visitation per calendar year, and with this additional time, Respondent/Cross-Appellant would have between 143 and 146 days of physical custody per year (and up to 155 days of physical custody depending on whether appellant/cross-respondent foregoes holiday visitation as permitted by the parties' timeshare arrangement). *See Id.*

The Appealed Order adjudicates the requests for relief as set forth in Respondent/Cross-Appellant's Motion to Confirm Parties as Joint Physical Custodians and to Modify Timeshare Arrangement filed in the district court on October 29, 2009, which is attached hereto as Exhibit "B" (the "October 29, 2009 Motion"). On page 27 of the October 29, 2009 Motion (Article V, CONCLUSION, paragraph 2), Respondent/Cross-Appellant specifically requests that the district court "[m]odify the timeshare of the children to grant the parties equal time and more frequent associations with the children[.]" (emphasis added).

Respondent/Cross-Appellant filed on December 7, 2009 a reply and opposition, which is attached hereto as Exhibit "C" (the "Reply/Opposition"), to appellant/cross-respondent's opposition and counter-motion, respectively. On page 27 of the Reply/Opposition (Article III, CONCLUSION,

1 paragraph 2), Respondent/Cross-Appellant again specifically requests that the district court “[m]odify  
2 the timeshare of the children to grant the parties equal time and more frequent associations with the  
3 children[.]” (emphasis added).

4 At the hearing in the district court held on December 8, 2009, the district court deferred ruling on  
5 Respondent/Cross-Appellant’s October 29, 2009 Motion and ordered a child custody evaluation to be  
6 performed based on the allegations set forth in the pleadings. Attached as Exhibit “D” is a copy of the  
7 order from the December 8, 2009 hearing (the “December 8, 2009 Order”). The district court concluded  
8 that Respondent/Cross-Appellant “shall pay for the evaluation, but if the report comes back negative  
9 toward [appellant/cross-respondent], she will be required to reimburse [Respondent/Cross-Appellant]  
10 the amount paid.” See December 8, 2009 Order at 2 (paragraph 1).

13 Respondent/Cross-Appellant filed a Supplement to the October 29, 2010 Motion on May 3, 2010  
14 (the “Supplement”). The Supplement is attached hereto as Exhibit “E.” By this Supplement,  
15 Respondent/Cross-Appellant submitted to the district court that (i) an evidentiary hearing should be held  
16 on the October 29, 2010 Motion and that discovery should be permitted with respect to child custody  
17 matters, or alternatively the district court should grant his motion confirming the parties as joint physical  
18 custodians and provide him an equal timeshare arrangement, and (ii) Respondent/Cross-Appellant  
19 should be reimbursed for the costs of the child custody evaluation and for his attorney’s fees and costs of  
20 opposing appellant/cross-respondent’s motion for reconsideration of the December 8, 2009 Order, which  
21 was heard and denied by the district court on April 13, 2010. A copy of the order from the hearing on  
22 April 13, 2010 is attached hereto as Exhibit “F,” and Respondent/Cross-Appellant directs the Nevada  
23 Supreme Court’s attention to page 2, paragraph 6 of the order. At the May 6, 2010 hearing, the district  
24 court ruled that it would review the Supplement and file a written decision. Attached as Exhibit “G” are  
25  
26  
27  
28

1 the minutes from the hearing on May 6, 2010. The Appealed Order is the written decision from the May  
2 6, 2010 hearing.

## 3 II.

### 4 CROSS-APPELLANT IS AN AGGRIEVED PARTY UNDER NRAP 3A(a)

5 NRAP 3A(a) provides that “[a] party who is aggrieved by an appealable judgment or order may  
6 appeal from that judgment or order, with or without first moving for a new trial.” The seminal case  
7 explaining the law on cross-appeals in Nevada is *Ford v. Showboat Operating Co.*, 110 Nev. 752, 877  
8 P.2d 546 (1994). In *Ford*, the Nevada Supreme Court held that a respondent who prevails in the district  
9 court and who does not wish to alter any rights of the parties arising from the judgment is not aggrieved  
10 by the judgment and may not file a cross-appeal; however, such respondent may still advance any  
11 argument in support of the judgment even if the district court rejected or did not consider the argument.  
12  
13  
14 *Id.*

15 In the present case, Respondent/Cross-Appellant was aggrieved by the Appealed Order because  
16 the district court failed to grant an equal timeshare, and failed to address the issue of attorney’s fees and  
17 costs (including the costs for Dr. Paglini) that the district court specifically indicated that it would  
18 address at the May 6, 2010 hearing. Respondent/Cross Appellant’s request for a greater increase in  
19 timeshare than that which was granted was an integral part of his motion, and the district court’s pledge  
20 to address attorney’s fees and costs was evidenced in the district court’s May 6, 2010 minutes in which  
21 it indicates it would review the Supplement (that contained Respondent/Cross Appellants requests for  
22 attorney’s fees and costs) and issue a ruling.  
23  
24

25 Specifically, Respondent/Cross-Appellant requested in his pleadings that the district court award  
26 him an equal timeshare. It appears, however, the district court only granted Respondent/Cross-  
27 Appellant the minimum additional time it believed was necessary for Respondent/Cross-Appellant to  
28

1 meet the new definition of "joint physical custody" (i.e., at least 40% of the timeshare) as defined in  
2 *Rivero v. Rivero*, 216 P.3d 213 (2009). By his cross-appeal, Respondent/Cross-Appellant seeks to  
3 increase his rights under the judgment by arguing that the district court erred because it should have  
4 granted him 50% of the physical timeshare (or approximately 182.5 days of custody).

5 Respondent/Cross-Appellant was also "aggrieved," as defined under NRAP 3, by the Appealed  
6 Order because the district court failed to require appellant/cross-respondent to reimburse him the costs  
7 incurred for the child custody evaluation and failed to award him attorney's fees and costs of opposing  
8 appellant/cross-respondent's motion for reconsideration of the December 8, 2009 Order, which was  
9 heard and denied by the district court on April 13, 2010. Again, Respondent/Cross-Appellant  
10 specifically raised the issue of costs and attorney's fees in the Supplement that the district court  
11 specifically indicated it would review before issuing its order. (*See* Minutes of hearing of May 6, 2010,  
12 Exhibit "G" hereto). By his cross-appeal, Respondent/Cross-Appellant again seeks to increase his rights  
13 under the judgment by arguing that the district court erred because it should have awarded him the fees  
14 and costs referenced above.  
15  
16  
17

18 . . .

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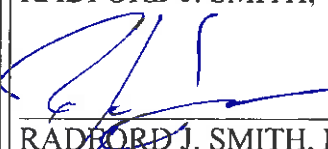
III.

CONCLUSION

Based on the foregoing, the Nevada Supreme Court should not dismiss Respondent/Cross-Appellant's cross-appeal.

DATED this 29 day of March, 2011.

RADFORD J. SMITH, CHARTERED



---

RADFORD J. SMITH, ESQ.

Nevada Bar No. 002791

64 N. Pecos Road, Suite 700

Henderson, Nevada 89074

(702) 990-6448

Attorneys for Respondent/Cross-Appellant Mitchell Stipp



**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 "Reply to Order To Show Cause" on this 23<sup>rd</sup> day of March, 2011, to all interested parties as follows:

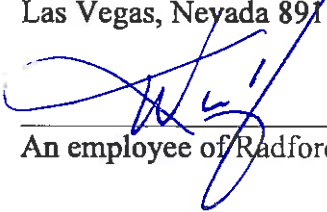
☒ BY MAIL: Pursuant To NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

☒ 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:

Patricia L. Vaccarino, Esq.  
Vaccarino Law Office  
8861 W. Sahara Avenue., Suite 210  
Las Vegas, Nevada 89117

  
\_\_\_\_\_  
An employee of Radford J. Smith, Chartered

**REPLY**  
**EXHIBIT “A”**



**EIGHTH JUDICIAL DISTRICT COURT**

**FAMILY DIVISION  
601 NORTH PECOS  
LAS VEGAS, NEVADA 891012408**

**DEPARTMENT O  
(702) 466-1334  
FACSIMILE (702) 466-1338**

**FACSIMILE TRANSMISSION FORM**

**November 4, 2010**

**TO: Patricia Vaccarino, Esq. & Radford Smith, Esq.**

**Fax #: (702) 258-8840 & (702) 990-6456**

**RE: Order from May 6, 2010 hearing and Notice of Entry of Order**

**# of Pages: 21 (Including Cover Sheet)**

**FROM: Randall Forman, Law Clerk to the Honorable Frank P. Sullivan**

**SPECIAL INSTRUCTIONS:**

***IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CONTACT:***  
***NAME: Randall Forman PHONE: (702) 455-1336***

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DISTRICT COURT

CLARK COUNTY, NEVADA

CHRISTINA STIPP,

Plaintiff,

vs.

MITCHELL STIPP,

Defendant.

CASE NO. D-08-389203-Z  
DEPT. NO. ONOTICE OF ENTRY OF ORDER

To:

Patricia Vaccarino, Esq.  
8861 W. Sahara Ave. #210  
Las Vegas, NV 89117Radford Smith, Esq.  
64 N. Pecos Rd. #700  
Henderson, NV 89074

PLEASE TAKE NOTICE that an Order from the May 6, 2010 hearing was  
duly entered in the above-referenced case on the 4th day of November, 2010.

Dated this 4th day of November, 2010.

  
Randall Forman, Esq.  
Law Clerk  
Department O

1 ORDR

FILED

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4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

7 CHRISTINA STIPP, )

8 Plaintiff, )

CASE NO. D-08-389203-Z

9 vs. )

DEPT. NO. O

10 MITCHELL STIPP, )

11 Defendant. )

13 Date of Hearing: May 6, 2010

14 Time of Hearing: 10:00 a.m.

15 This matter having come before this Court on May 6, 2010, on Defendant's  
 16 Motion to Confirm Parties as Joint Physical Custodians and to Modify Timeshare  
 17 Arrangement; and Plaintiff's Countermotion to set Aside August 7, 2009 Stipulation,  
 18 Grant Discovery, Partition Undisclosed Marital Assets, and for Sanctions; with  
 19 Christina C. Stipp, Plaintiff, appearing and being represented by Donn W. Prokopius,  
 20 Esq.; and Mitchell D. Stipp, Defendant, appearing and represented by Radford J.  
 21 Smith, Esq.; and the Court being duly advised in the premises, having reviewed  
 22 Plaintiff's Motion, Defendant's Opposition and Countermotion, Plaintiffs' Opposition  
 23 to Countermotion, Plaintiff's Supplement to Motion, Defendant's Supplement to  
 24 Countermotion, and having heard oral argument, and good cause being shown,  
 25  
 26  
 27  
 28

1           **THE COURT HEREBY FINDS** that the parties have two children in  
2 common, Mia, born on October 19, 2004, and Ethan, born on March 24, 2007.

3           **THE COURT FURTHER FINDS** that on February 20, 2008, the parties  
4 entered into a Marital Settlement Agreement (MSA) that provided that they shall have  
5 joint legal and physical custody of the children.  
6

7           **THE COURT FURTHER FINDS** that the MSA provided that Defendant  
8 (husband) would have the children on Fridays from 6:00 p.m. until Sundays at 6:00  
9 p.m., however, the Plaintiff (wife) would have the right to have the children on the  
10 first weekend of every month upon three (3) days prior written notice.

11           **THE COURT FURTHER FINDS** that the MSA further provided holiday  
12 visitation as follows:  
13

14           (a) Martin Luther King (MLK) Day Weekend: MLK Day is to be  
15 celebrated on the third Monday in January with the weekend  
16 commencing at 6:00 p.m. on the Friday before the holiday and ending  
17 at 6:00 p.m. on the holiday. Plaintiff is to have the children in even-  
18 numbered years and Defendant in odd-numbered years.

19           (b) President's Day Weekend: President's Day: President's Day is to  
20 be celebrated on the third Monday in February with the weekend  
21 commencing at 6:00 p.m. on the Friday before the holiday and ending  
22 at 6:00 p.m. on the holiday. Plaintiff is to have the children in odd-  
23 numbered years and the Defendant in even-numbered years.

24           (c) Easter Day: Easter Day is to be celebrated on Sunday with the  
25 Defendant having the children on Easter Sunday until 2:00 p.m. and  
26 Plaintiff having the children after 2:00 p.m.

27           (d) Memorial Day Weekend: Memorial Day is to be celebrated on the  
28 last Monday in May with the weekend commencing at 6:00 p.m. on  
the Friday before the holiday and ending at 6:00 p.m. on the holiday.  
Plaintiff is to have the children in even-numbered years and Defendant  
in odd-numbered years.

1 (e) Father's Day/Mother's Day: Defendant is to have the children on  
2 Father's Day from 9:00 a.m. until 6:00 p.m. and Plaintiff is to have  
3 children on Mother's Day from 9:00 a.m. until 6:00 p.m.

4 (f) Independence Day: Independence Day is to commence at 6:00  
5 p.m. on the day before the holiday and end at 9:00 a.m. on the day  
6 after the holiday. Plaintiff is to have the children in even-numbered  
7 years and Defendant in odd-numbered years.

8 (g) Labor Day Weekend: Labor Day is to be celebrated on the first  
9 Monday in September with the weekend commencing at 6:00 p.m. on  
10 the Friday before the holiday and ending at 6:00 p.m. on the holiday.  
11 Defendant is to have the children in even-numbered years and Plaintiff  
12 in odd-numbered years.

13 (h) Halloween Night: Halloween night will commence at 3:00 p.m. on  
14 the holiday and end at 8:30 p.m. on the holiday. Plaintiff is to have the  
15 children in even-numbered years and Defendant in odd-numbered  
16 years.

17 (i) Veterans Day: Veterans Day is to be observed on November 11<sup>th</sup>  
18 with visitation commencing at 6:00 p.m. on the day immediately  
19 preceding the holiday and ending at 6:00 p.m. on the holiday.

20 (j) Thanksgiving Weekend: The Thanksgiving holiday is to be divided  
21 into two periods, with Period One commencing at 4:00 p.m. on  
22 Thanksgiving Day and ending at 6:00 p.m. on the Saturday  
23 immediately following Thanksgiving Day. Period Two is to  
24 commence at 6:00 p.m. on the Saturday following Thanksgiving Day  
25 and ending at 6:00 p.m. on the Sunday immediately following  
26 Thanksgiving Day. Defendant is to have the children during Period  
27 One and Plaintiff Period Two in all years.

28 (k) Christmas Holiday: The Christmas holiday is to be divided into  
two periods, with Period One commencing at 9:00 a.m. on December  
24<sup>th</sup> and ending at 9:00 a.m. on December 25<sup>th</sup>. Period Two is to  
commence at 9:00 a.m. on December 25<sup>th</sup> and end at 6:00 p.m. on the  
25<sup>th</sup>. Plaintiff is to have the children during Period One and Defendant  
during Period Two in all years.

(l) New Year's Day: New Year's Day is to be celebrated on January  
1<sup>st</sup> with holiday visitation commencing at 6:00 p.m. on the day  
immediately preceding the holiday and ending at 6:00 p.m. on the  
holiday. Defendant is to have the children in even-numbered years and  
Plaintiff in odd-numbered years.

1 (m) Children's Birthdays: Plaintiff, upon three (3) days prior written  
2 notice, is to have the children on the Saturday immediately proceeding  
3 a child's birthday, in which case, Defendant will have his normal  
visitation from 9:00 a.m. until 6:00 p.m. on Sunday.

4 (n) Parents' Birthdays: Each party, upon three (3) days prior written  
5 notice, is to have the children from 9:00 a.m. until 6:00 p.m. on their  
6 respective birthdays.

7 (o) Vacation Visitation: Each party is permitted to have the children  
8 for two (2) consecutive weeks for the purpose of taking a vacation.

9 **THE COURT FURTHER FINDS** that the parties filed a Joint Petition for  
10 Divorce on February 28, 2008.

11 **THE COURT FURTHER FINDS** that on March 6, 2008, a Decree of  
12 Divorce was granted which fully incorporated the Marital Settlement Agreement into  
13 such Decree.

14 **THE COURT FURTHER FINDS** that on December 17, 2008, Plaintiff filed  
15 a Motion to Confirm Plaintiff as the De Jure Primary Physical Custodian, for  
16 Modification of the Divorce Decree Regarding Child Custody, Visitation and Other  
17 Parent/Child Issues, for Defendant's Reimbursement of One-Half of the Children's  
18 Medical Costs, for Mediation Regarding Dispute Over Dividing the Minor Children's  
19 Education and Other Costs, and for Attorney's Fees and Costs.

20 **THE COURT FURTHER FINDS** that on January 9, 2009, Defendant filed  
21 an Opposition to Plaintiff's Motion to Confirm Plaintiff as the De Jure Primary  
22 Physical Custodian and a Countermotion to Strike Inadmissible Evidence from  
23 Plaintiff's Motion, to Resolve Parent/Child Issues, for a Temporary Protective Order  
24 Addressing Plaintiff's Harassment of Defendant, and for Sanctions and Attorney's  
25 Fees.  
26  
27  
28



1           **THE COURT FURTHER FINDS** that on January 9, 2009, Plaintiff filed a  
2 Motion for Leave to Take the Depositions of Mitchell Stipp (Defendant) and William  
3 Plise.  
4

5           **THE COURT FURTHER FINDS** that on February 11, 2009, Plaintiff filed  
6 a Reply to Defendant's Opposition and Defendant's Countermotion.

7           **THE COURT FURTHER FINDS** that on February 24, 2009, the Court  
8 heard oral argument on all pending Motions and Countermotions.

9           **THE COURT FURTHER FINDS** that by Order dated April 3, 2009, the  
10 Court denied all pending Motions and Countermotions, but Ordered Defendant to  
11 reimburse Plaintiff the sum of three hundred twenty-six dollars and forty-five cents  
12 (\$326.45) as and for unreimbursed medical expenses incurred on behalf of the  
13 children.  
14

15           **THE COURT FURTHER FINDS** that on April 27, 2009, Defendant filed a  
16 motion for Reconsideration, Motion for Rehearing; Or in the Alternative, Motion to  
17 Modify Joint Timeshare,  
18

19           **THE COURT FURTHER FINDS** that on June 3, 2009, Plaintiff filed an  
20 Opposition to Defendant's Motion for Reconsideration, Motion for Rehearing and, in  
21 the Alternative, Motion to Modify Joint Timeshare.

22           **THE COURT FURTHER FINDS** that on June 4, 2009, the Court heard oral  
23 argument on Defendant's Motion and Plaintiff's Opposition to the Motion and  
24 Ordered the parties to the Family Mediation Center for confidential mediation and  
25 scheduled an Evidentiary Hearing for October 27, 2009.  
26  
27  
28

1           **THE COURT FURTHER FINDS** that on June 18, 2009, Defendant filed a  
2 Motion for an Order to Show Cause alleging that the Plaintiff had violated the  
3 custodial agreement by keeping the children from Defendant on his visitation day of  
4 Friday, June 12, 2009.  
5

6           **THE COURT FURTHER FINDS** that on July 23, 2009, the parties  
7 submitted a Stipulation and Order Resolving Defendant's Motion for an Order to  
8 Show Cause resolving the matter by awarding Defendant an additional nine (9) hours  
9 of visitation on Friday June 26, 2009, with Defendant receiving the children at 9:00  
10 a.m. instead of 6:00 p.m.  
11

12           **THE COURT FURTHER FINDS** that on August 7, 2009, the parties  
13 submitted a Stipulation and Order which didn't change the joint legal and physical  
14 custody designation included in the Marital Settlement Agreement, but modified the  
15 timeshare arrangement provided for in the MSA as follows:  
16

17           (a) Defendant is to have the children on the first, third and fifth (when  
18 there is a fifth weekend in the month) weekends of each month from  
19 Friday 6:00 p.m. until Sunday at 6:00 p.m., however, the Plaintiff,  
20 upon three (3) days prior written notice, is entitled to have the children  
21 on the first weekend of each month. In the event that Plaintiff  
22 exercises her right to have the children on the first weekend of the  
23 month, then Defendant will have the children commencing at 6:00  
24 p.m. on the Wednesday preceding the first weekend of the month until  
25 6:00 p.m. on the Friday preceding the first weekend of the month.  
26

27           (b) Defendant is to have the children on the second and fourth  
28 weekends of the month from Thursday at 6:00 p.m. until Sunday at  
6:00 p.m.

**THE COURT FURTHER FINDS** that pursuant to the Stipulation and Order  
filed on August 7, 2009, the Court dismissed Defendant's pending Motion for

1 Reconsideration and Rehearing and vacated the Evidentiary Hearing set for October  
2 27, 2009.

3  
4 **THE COURT FURTHER FINDS** that on October 29, 2009, Defendant filed  
5 a Motion to Confirm Parties as Joint Physical Custodians and to Modify Timeshare  
6 Arrangement.

7 **THE COURT FURTHER FINDS** that Defendant's Motion to Confirm  
8 Parties as Joint Custodians and to Modify Timeshare Arrangement essentially alleged  
9 that the parties' daughter, Mia, was being emotionally abused by Plaintiff by her  
10 continued attempts to alienate the children from Defendant by making disparaging  
11 remarks about Defendant and his current wife, Amy, (Defendant is a cheater, Amy  
12 stole Defendant away from Plaintiff, Amy is married to someone other than  
13 Defendant, and Plaintiff hates Amy) which has caused Mia to have severe mood  
14 swings, significant anger management issues, and frequent emotional outbursts.

15  
16 **THE COURT FURTHER FINDS** that on November 30, 2009, Plaintiff filed  
17 an Opposition to Defendant's Motion to Confirm Parties as Joint Custodians and to  
18 Modify Timeshare Arrangement and filed a Countermotion to Set Aside August 7,  
19 2009, Stipulation and Order Due to Defendant's Fraud upon the Court, to Grant  
20 Discovery, to Partition Undisclosed Marital Assets, and for Sanctions.

21  
22 **THE COURT FURTHER FINDS** that Plaintiff's Opposition and  
23 Countermotion and Countermotion to Set Aside August 7, 2009, Stipulation and  
24 Order, and to Grant Discovery and Partition Undisclosed Marital Assets essentially  
25 alleged that Defendant is blatantly attempting to re-litigate the custodial arrangement  
26 which is barred by res judicata, failed to disclose his post-divorce arrest for DUI and  
27  
28

1 subsequent conviction for Reckless Driving which evidences that Defendant abuses  
2 alcohol, and fraudulently concealed significant marital assets and/or post divorce  
3 distributions.  
4

5 **THE COURT FURTHER FINDS** that on December 7, 2009, Defendant  
6 filed a Reply to Opposition to Defendant's Motion to Confirm Parties as Joint  
7 Custodians and Opposition to Plaintiff's Countermotion to Set Aside August 7, 2009,  
8 Stipulation and Order.

9 **THE COURT FURTHER FINDS** that on December 8, 2009, the Court  
10 heard oral argument on the pending Motions and Countermotions and, based upon the  
11 allegations raised by each party, directed that a Child Custody Evaluation be  
12 performed by Dr. John Paglini.  
13

14 **THE COURT FURTHER FINDS** that on December 18, 2009, Defendant  
15 filed a Supplement to Opposition to Countermotion to Set Aside August 7, 2009,  
16 Stipulation and Order.

17 **THE COURT FURTHER FINDS** that on January 28, 2010, Plaintiff filed a  
18 Motion to Stay Discovery concerning the ongoing child custody dispute, specifically  
19 seeking to Stay Discovery regarding Dr. Melissa Kalodner, Dr. Joel Mishalow,  
20 School Records, and Plaintiff's deposition.  
21

22 **THE COURT FURTHER FINDS** that on February 2, 2010, Defendant filed  
23 an Opposition to Plaintiff's Motion to Stay Discovery alleging that such discovery  
24 was necessary to completely and fairly conduct the child custody evaluation.

25 **THE COURT FURTHER FINDS** that a Hearing was held on February 3,  
26 2010, at which time the Court Ordered that Discovery may be conducted on a limited  
27  
28

1 basis to obtain school records, obtain records from Dr. Mishalow and Dr. Koladner,  
2 and depose Dr. Mishalow as some of his records were illegible.  
3

4 **THE COURT FURTHER FINDS** that on February 16, 2010, Plaintiff filed  
5 a Motion to Rehear/Reconsider the Hearing of December 8, 2009, and/or to Clarify  
6 the Court's Rulings from that Hearing requesting that the Court rehear or reconsider  
7 its Order for an Outsource Evaluation to be conducted by Dr. Paglini as there was no  
8 evidence that Mia had been emotionally abused.

9 **THE COURT FURTHER FINDS** that on March 8, 2010, Defendant filed an  
10 Opposition to Plaintiff's Motion to Rehear/Reconsider the Hearing of December 8,  
11 2009, and Countermotion for Sanctions.  
12

13 **THE COURT FURTHER FINDS** that on April 12, 2010, Plaintiff filed a  
14 Reply to Defendant's Opposition to Plaintiff's Motion to Rehear/Reconsider the  
15 Hearing of December 8, 2009.

16 **THE COURT FURTHER FINDS** that on April 13, 2010, the Court heard  
17 oral argument on Plaintiff's Motion to Rehear/Reconsider the Hearing of December  
18 8, 2009, and denied Plaintiff's request for rehearing and reconsideration and refused  
19 to modify its Order for an Outsource Evaluation and refused to otherwise limit the  
20 scope of Dr. Paglini's assessment. Such Order of the Court was submitted on May 24,  
21 2010.  
22

23 **THE COURT FURTHER FINDS** that pursuant to the direction of the Court,  
24 Dr. John Paglini performed a Child Custody Evaluation dated April 29, 2010.

25 **THE COURT FURTHER FINDS** that on April 30, 2010, Plaintiff filed a  
26 Motion to Rehear/Reconsider the Hearing of February 3, 2010, alleging that the Order  
27  
28

1 submitted by Defendant's counsel for the Hearing held on February 3<sup>rd</sup> included  
2 conclusions not found by the Court, that Plaintiff's counsel was not afforded an  
3 opportunity to review the Order prior to its submittal, and that Defendant had  
4 admitted to non-disclosure of marital assets in Dr. Paglini's Child Custody Evaluation  
5 by stating that he had received a \$5 million dollar payment from the end of 2004  
6 through the middle of 2007.  
7

8 **THE COURT FURTHER FINDS** that on May 3, 2010, Defendant filed a  
9 Supplement to Motion to Confirm Parties as Joint Physical Custodians and to Modify  
10 Timeshare Arrangement.  
11

12 **THE COURT FURTHER FINDS** that on May 5, 2010, Plaintiff filed a  
13 Supplement to Countermotion to Set Aside August 7, 2009, Stipulation and Order and  
14 Opposition to Defendant's Motion to Confirm Parties as Joint Custodians.

15 **THE COURT FURTHER FINDS** that on May 6, 2010, the Court heard oral  
16 argument on all pending Motions and Countermotion and, based upon Dr. Paglini's  
17 recommendation, the Court determined that there was not a need to conduct an  
18 Evidentiary Hearing.  
19

20 **THE COURT FURTHER FINDS** that on June 3, 2010, Defendant filed an  
21 Opposition to Plaintiff's Motion to Rehear/Reconsider the Hearing of February 3,  
22 2010, and Countermotion for Sanctions alleging that Plaintiff's Motion was filed  
23 merely to harass Defendant and Plaintiff was well aware of Defendant's financial  
24 compensation at the time of divorce as she received a settlement of \$2.2 million,  
25 including \$1.8 million in cash.  
26  
27  
28

1           **THE COURT FURTHER FINDS** that on June 15, 2010, Plaintiff filed a  
2           Reply in Support of Plaintiff's Motion to Rehear/Reconsider the Hearing of February  
3           3, 2010, and Opposition to Defendant's Countermotion for Sanctions.  
4

5           **THE COURT FURTHER FINDS** that on June 18, 2010, Defendant filed a  
6           Reply to Opposition to Countermotion for Sanctions.

7           **THE COURT FURTHER FINDS** that on June 22, 2010, the Court held a  
8           hearing on Plaintiff's Motion to Rehear/Reconsider the Hearing of February 3, 2010  
9           and Defendant's Countermotion for Sanctions and heard argument regarding the  
10          language included in the Order from the February 3, 2010 hearing, the need for  
11          discovery as to alleged non-disclosed marital assets, Defendant's retirement status,  
12          the Wells Fargo loan, Section 5 of the divorce Decree, the Aquila Investment  
13          business, the business tax returns, and attorney fees.  
14

15          **THE COURT FURTHER FINDS** that after entertaining oral argument on  
16          June 22, 2010, the Court denied Plaintiff's request to modify the Order from the  
17          hearing held on February 3, 2010; allowed Plaintiff to hire a forensic accountant to  
18          review Aquila Investments tax returns for the 2007 and 2008 tax years; found no  
19          proof of fraud being perpetrated upon the Court; denied Defendant's request for  
20          sanctions; but awarded Defendant attorney fees as the prevailing party.  
21

22          **THE COURT FURTHER FINDS** that after Plaintiff contacted Dr. Melissa  
23          Kalodner and decided not to have Mia treated by Dr. Kalodner, Defendant brought  
24          Mia to Dr. Kalodner for psychological treatment on or about September 11, 2009,  
25          without Plaintiff's knowledge or permission.  
26  
27  
28

1           **THE COURT FURTHER FINDS** that Defendant sought treatment for Mia  
2 with Dr. Kalodner to address the re-manifestation (Mia's issues as to clothing had  
3 commenced in December of 2008) of Mia's issues with clothing (insisting that  
4 clothing was too tight, demanding that her clothing be stretched out, refusing to wear  
5 clothing unless it was many sizes too big, refusing to wear underwear, refusing to  
6 wear her school uniform) and behavior issues relating to Mia's defiant behavior when  
7 made to wear clothing, anger outbursts and emotional meltdowns.  
8

9           **THE COURT FURTHER FINDS** that Dr. Kalodner noted, in a letter dated  
10 December 4, 2009, that Mia made spontaneous statements during treatment sessions,  
11 such as:  
12

13           a) "I want to spend more time with my dad, but mommy says we can't  
14 change the rules".

15           b) "I want to spend more time with my dad, but the judge won't let  
16 me"

17           c) "Mommy does not like Amy" (stepmother).

18           d) "Mommy says Amy is bad, but I like her".

19           **THE COURT FURTHER FINDS** that with the knowledge and permission  
20 of each parent, Mia was being treated for her clothing and behavior issues by Dr. Joel  
21 Mishalow from September 25, 2009, through December of 2009, however, Defendant  
22 failed to advise Dr. Mishalow that Mia was also being treated by Dr. Kalodner.

23           **THE COURT FURTHER FINDS** that after being advised of the fact that  
24 Mia was being treated by Dr. Kalodner, Dr. Mishalow decided that he no longer  
25 wanted to treat Mia given all of the psychological treatment that she had already  
26 undergone and due to the many dynamics going on within the family.  
27  
28



1           **THE COURT FURTHER FINDS** that Kalodner consulted with Dr. Beasley  
2  
3           pertaining to Mia's treatment issues and Dr. Beasley recommended a referral to the  
4           Achievement Therapy Center for assessment as to possible sensory deficit disorder.

5           **THE COURT FURTHER FINDS** that on November 17, 2009, Defendant,  
6           without the knowledge or permission of Plaintiff, brought Mia to Dr. Stegen-Hansen,  
7           a pediatric occupational therapist, for evaluation as to possible sensory deficit  
8           disorder.

9           **THE COURT FURTHER FINDS** that Mia has been receiving treatment at  
10           the Achievement Therapy Center since January 2010 and is making excellent  
11           progress in treating her clothing and behavioral issues.

12           **THE COURT FURTHER FINDS** that based upon concerns raised by  
13           Plaintiff regarding Defendant having an ongoing problem with alcohol abuse, Mr.  
14           Stipp was referred to Dr. Michael Levy for an assessment as to alcohol dependence  
15           and substance abuse.  
16

17           **THE COURT FURTHER FINDS** that after subjecting Defendant to a  
18           comprehensive metabolic panel, complete blood count, and a GGTP (a very sensitive  
19           test to detect recent use of alcohol), Dr. Levy opined the following:  
20

21                   a) That the results of the laboratory data recorded no biological  
22                   markers associated with recent or chronic use of alcohol.

23                   b) That based upon the DSM IV criteria for alcohol abuse, there is no  
24                   data to support that Mr. Stipp currently has a substance abuse problem,  
25                   or at any time throughout his drinking history, met the clinical criteria  
26                   for alcohol dependence.

27           **THE COURT FURTHER FINDS** that Dr. Paglini's Child Custody  
28           Evaluation, which was based upon extensive clinical interviews, review of discovery

1 documentation, extensive collateral interviews of family and friends, psychological  
2 testing of both parents, brief interviews of Mia, home visits and family observations,  
3 concluded the following:  
4

5 a) That based upon the spontaneous comments made by Mia to Dr.  
6 Kalodner, Mia is either hearing negative comments directly from her  
7 mother, or overhearing negative comments in her environment and  
8 interpreting impressions from her parents, but that such comments,  
while inappropriate, do not reach the level of emotional abuse or  
alienation as alleged by Defendant.

9 b) That although alcohol usage by Mr. Stipp was a significant relevant  
10 issue during the course of their marriage, based upon the evaluation of  
11 Dr. Levy and numerous collateral interviews, alcohol usage by Mr.  
Stipp is not currently a problem as alleged by Plaintiff.

12 c) That the children are very bonded with Plaintiff, Defendant and  
13 Amy Stipp.

14 d) That both parents provide excellent care for the children, excellent  
15 homes for the children, and are very involved in the children's lives.

16 e) That the children are surrounded by a lot of love, despite an  
17 acrimonious post-divorce relationship between the parents.

18 f) That unresolved issues tend to re-emerge during day-to-day  
19 communications between the parents and if they are unable to resolve  
their issues, it is likely that their children will be emotionally affected  
in the future.

20 g) That if the parents could resolve their issues and co-parent  
21 effectively and assist their daughter with frustrations as they emerge in  
22 interpersonal relationships, this will likely resolve Mia's anger issues  
without the need for additional therapy.

23 h) That if the parents are not able to resolve their issues, this could  
24 create additional difficulties for Mia which could result in her acting  
out.

25 **THE COURT FURTHER FINDS** that Dr. Paglini's report noted that  
26 Plaintiff feared that if Defendant received more time with the children, that he  
27  
28

1 eventually will request to relocate to Texas to join his former business partner and  
2 take the children with him.

3  
4 **THE COURT FURTHER FINDS** that based upon Plaintiff's expressed fear  
5 about Defendant's possible relocation in the future, it appears that Plaintiff's  
6 opposition to maintaining the joint physical custodian designation at this time is based  
7 upon a potential relocation issue and not based upon a concern for best interest of the  
8 children.

9  
10 **THE COURT FURTHER FINDS** that based upon Dr. Paglini's Child  
11 Custody Evaluation in which he found that the children are very bonded with each  
12 parent, that both parents provide excellent care for the children, that both parents  
13 provide excellent homes for the children, that both parents are very involved in the  
14 children's lives, and that the children are surrounded by lots of love in each parental  
15 household, it is apparent that joint legal and physical custody is in the best interest of  
16 the children.

17 **THE COURT FURTHER FINDS** that the fact that the parents have agreed  
18 to an award of joint legal and physical custody on two separate occasions as  
19 evidenced by the Marital Settlement Agreement (February 20, 2008) and subsequent  
20 Stipulation and Order (August 7, 2009), further supports the finding that joint legal  
21 and physical custody is in the best interest of the children.

22  
23 **THE COURT FURTHER FINDS** that pursuant to Rivero v. Rivero, 216  
24 P.3d 213 (Nev. 2009):

25 a) This Court "should calculate the time during which a party has  
26 physical custody of a child over one calendar year."

1  
2 b) That "in calculating the time during which a party has physical  
3 custody of the child, the district court should look at the number of  
4 days during which a party provided supervision of the child, the child  
5 resided with the party, and during which the party made day-to-day  
6 decisions regarding the child."

7 c) That a determination of joint physical custody can only be made  
8 when each parent has physical custody of the child for at least 40% of  
9 the year, which equals 146 days.

10 **THE COURT FURTHER FINDS** that pursuant to the Marital Settlement  
11 Agreement entered into by the parties on February 20, 2008, and the Stipulation and  
12 Order filed on August 7, 2009, the time-share arrangement leads to the following  
13 calculation of time over a calendar year:

14 a) That depending on whether it is an even or odd year, what day of  
15 the week the year starts on, and whether or not it is a leap year,  
16 Defendant always has between 131 and 134 custodial days per year.

17 b) That depending on whether or not Christian Stipp foregoes her  
18 visitation for Martin Luther King Day, President's Day, Memorial Day  
19 and/or Labor Day, and whether it is an even or odd year, Defendant  
20 may have an additional 8 days of custody per year.

21 c) That depending on whether Plaintiff's and Defendant's birthday fall  
22 on one of their custodial days, and whether they request to have  
23 custody of the children on their birthday, Defendant may have an  
24 additional day of custody per year.

25 **THE COURT FURTHER FINDS** that based upon the current time-share  
26 agreement, Defendant has a minimum of 131 days of physical custody per year with a  
27 maximum amount of 143 days per year depending upon whether Plaintiff decides to  
28 forego her holiday visitations (MLK Day, President's Day, Memorial Day, and/or  
Labor Day), which would fall a few days short of the 40% time-share requirement  
mandated by Rivero.

1                   **THE COURT FURTHER FINDS** that assuming that a joint physical  
2  
3 custody arrangement does not currently exist, the following facts evidence a  
4 substantial change in circumstances affecting the welfare of the children supporting a  
5 change in custody to joint physical custody:

6                   a) Mia's re-manifestation of issues with clothing; namely, insisting  
7 that clothing was too tight, demanding that her clothing be stretched  
8 out, refusing to wear clothing unless it was many sizes too big,  
9 refusing to wear underwear, refusing to wear her school uniform;  
behavior issues relating to her defiant behavior when made to wear  
clothing, anger outbursts and emotional meltdowns.

10                  b) The need for Mia to undergo extensive psychological treatment  
11 from Dr. Kalodner, Dr. Mishalow, Dr. Stegen-Hansen, and the  
12 ongoing sensory deficit processing treatment being provided by the  
Achievement Therapy Center.

13                  c) The spontaneous statements made by Mia to Dr. Kalodner  
14 indicating that she wanted to spend more time with her dad but her  
mommy or the judge wouldn't let her.

15                  d) The parties' extremely litigious nature resulting in the children  
16 becoming embroiled in the proceedings as evidenced by Mia's  
17 spontaneous statements to Dr. Kalodner indicating that Plaintiff  
doesn't like Amy and that Amy is bad.

18                  e) Dr. Paglini's report reflecting that the parents have unresolved  
19 issues that tend to re-emerge and that if they are unable to resolve their  
20 issues, it is likely that their children will be emotionally affected in the  
future.

21                   **THE COURT FURTHER FINDS** that in the best interest of the children,  
22 Defendant should be awarded additional time-share consisting of the Friday  
23 proceeding the third weekend of each month, commencing at 9:00 a.m. instead of  
24 6:00 p.m. as currently provided for in the Stipulation and Order filed on August 7,  
25 2009.  
26  
27  
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1           **THE COURT FURTHER FINDS** that awarding the Defendant the  
2 additional custodial time equates to an additional 12 days of custody per year as the  
3 Defendant will have the responsibility of making the day-to-day decisions for the  
4 children on the Fridays preceding the third weekend of each month.  
5

6           **THE COURT FURTHER FINDS** that after being awarded an additional 12  
7 days of custody per year, the Defendant will have between 143 and 146 days of  
8 custody every year and may have up to 155 days of custody per year depending upon  
9 whether Plaintiff decides to forego her holiday visitations.  
10

11           **THE COURT FURTHER FINDS** that under the applicable law in *Rivero*,  
12 these parties have been motivated to calculate the physical custodial days of the year  
13 instead of "calculating" a custodial time-share that is best interest of their minor  
14 children.  
15

16           **THE COURT FURTHER FINDS** that the parties are very intelligent, highly  
17 educated lawyers whose children would be better served by the parties resolving their  
18 issues between themselves without the need for legal and/or therapeutic intervention.  
19

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**THEREFORE, IT IS HEREBY ORDERED** that Defendant is awarded additional time-share consisting of the Friday proceeding every third weekend of each month commencing at 9:00 a.m. instead of at 6:00 p.m. as currently provided for in the Stipulation and Order filed on August 7, 2009.

**IT IS FURTHER ORDERED** that the parties will continue to be designated as joint legal and joint physical custodians.

Dated this 4<sup>th</sup> day of November, 2010

Frank P. Sullivan  
District Court Judge  
Dept. O

**REPLY**  
**EXHIBIT “B”**





CLERK OF THE COURT

MOT  
RADFORD J. SMITH, CHARTERED  
RADFORD J. SMITH, ESQ.  
Nevada Bar No. 002791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
T: (702) 990-6448  
F: (702) 990-6456  
rsmith@radfordsmith.com  
*Attorneys for Defendant*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTINA CALDERON STIPP,

Plaintiff,

vs.

MITCHELL DAVID STIPP,

Defendant.

CASE NO.: D-08-389203-Z

DEPT NO.: O

**FAMILY DIVISION**

ORAL ARGUMENT REQUESTED

YES ☒ NO ☒

**NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDER-SIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.**

**DEFENDANT'S MOTION TO CONFIRM PARTIES AS JOINT PHYSICAL CUSTODIANS  
AND TO MODIFY TIMESHARE ARRANGEMENT**

DATE OF HEARING: December 8, 2009

TIME OF HEARING: 10:00 A.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 his motion for an order confirming the parties as joint physical custodians of their minor children and granting him additional timeshare with the minor children.

1 This motion is made and based upon the points and authorities attached hereto, the affidavits of  
2 Mitchell Stipp and Megan Cantrell attached as Exhibits A and B, respectively, all pleadings, and papers  
3 on file in this action, and any oral argument or evidence adduced at the time of the hearing of this  
4 matter.  
5

6 DATED this 29<sup>th</sup> day of October 2009.

7 RADFORD J. SMITH, CHARTERED  
8 

9 RADFORD J. SMITH, ESQ.

10 Nevada Bar No. 002791

11 64 N. Pecos Road, Suite 700

12 Henderson, Nevada 89074

13 (702) 990-6448

14 Attorneys for Defendant  
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NOTICE OF MOTION

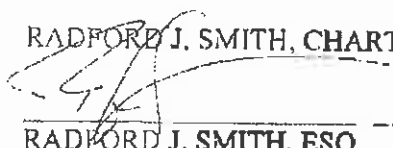
TO: CHRISTINA CALDERON STIPP, Plaintiff;

TO: JAMES J. JIMMERSON, ESQ. and SHAWN M. GOLDSTEIN, ESQ., attorney's for Plaintiff;

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing before the above-entitled Court on the 8<sup>TH</sup> day of December 2009, at the hour of 10:00 a.m. or as soon thereafter as counsel may be heard.

DATED this 29<sup>th</sup> day of October, 2009

RADFORD J. SMITH, CHARTERED

  
\_\_\_\_\_  
RADFORD J. SMITH, ESQ.  
Nevada State Bar No. 002791  
64 N. Pecos Rd. - Ste. 700  
Henderson, NV 89074  
(702) 990-6448  
*Attorney for Defendant*

I.

INTRODUCTION

Both under the Court's Decree entered March 6, 2008, and subsequent order filed August 7, 2009, the court has confirmed the parties, Plaintiff Christina Calderon Stipp ("Christina") and Defendant Mitchell David Stipp ("Mitchell"), as the joint physical custodians of their two minor children, Mia Elena Stipp ("Mia"), now age 5, and Ethan Christopher Stipp ("Ethan"), now age 2.5. On July 8, 2009, the parties renegotiated a parenting plan with the goal of remaining joint physical custodians, and because of the court's previous orders were based in part upon the court's decision in *Rivero v. Rivero*, 124 Nev. Adv. Op. No. 84, 195 P.3d 328 (2008), Mitchell seeks confirmation of his status as a joint physical custodian in light of the new definition of joint physical custody set forth in *Rivero v. Rivero*, 125 Nev. Adv. Rep. 34, 216 P.3d 213 (2009) ("Rivero II")

More importantly, the parties' daughter Mia is now suffering the ill effects of a constant barrage of disparagement about Mitchell from Christina. Mia's problems have become so severe that the parties have placed her into psychological counseling. This court has never adjudicated the issue of Christina's disparagement, and her marginalization of Mitchell's parental role with the children. While Mitchell had hoped that entering into a resolution would calm Christina, she has become worse. As shown below, her statements and actions demonstrate that it is the best interest of the children that this court confirm the parties as joint physical custodians under the current orders, set forth a plan of visitation consistent with an equal timeshare arrangement, and order an assessment of the parties' minor children to determine the basis of Mia's emotional problems she is now manifesting.

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II.

STATEMENT OF FACTS

The parties have two children, Mia, born October 19, 2004, and Ethan, born March 24, 2007.

This Court entered the parties' Decree of Divorce on March 6, 2008 (the "Decree") upon their joint petition for divorce filed in February of 2008. The Decree incorporates the terms and conditions of the parties' marital settlement agreement entered into and dated as of February 20, 2008 ("MSA"). From the date of the entry of the Decree in March of 2008 until December of 2008, a period of approximately ten (10) months, Mitchell tried to obtain more visitation time with the children without litigation. Christina refused to provide Mitchell more time and instead filed a motion to confirm herself as the primary physical custodian on December 17, 2008,<sup>1</sup> even after Mitchell made a request for and this Court ordered mediation in December of 2008.

Mitchell vigorously opposed Christina's motion and filed a countermotion seeking additional time with the children. The parties attended mediation and no resolution occurred. At the hearing of February 24, 2009, this Court denied each parties' motions, but nevertheless stated its belief that Mitchell should have more time with the children. After unsuccessful negotiations, on April 27, 2009 Mitchell filed his motion for reconsideration or in the alternative a motion to modify the timeshare arrangement. At the hearing on Mitchell's motion held on June 4, 2009, this Court again ordered the parties to attend mediation. The parties attended mediation and modified the terms of the MSA through a stipulation and order signed by the parties on July 8, 2009 and entered by this Court on August 7, 2009.

---

<sup>1</sup> Christina did not seek to move out of state, she did not seek to alter the timeshare arrangement, and she did not seek to alter the child support obligations of Mitchell, which are the primary instances in which the status of physical custody matter.

1 ("SAO"). Mitchell is moving to confirm the parties as joint physical custodians of their minor children  
2 and for a change in visitation or timeshare.<sup>2</sup>

3  
4 *A. Christina's Emotional Abuse of Mia, and Her Manipulation of the Therapeutic Process.*

5 Christina has emotionally abused Mia.<sup>3</sup> Mia only recently began to show signs of this trauma.  
6 She has severe mood swings and significant anger management issues. Mia is prone to frequent  
7 emotional outbursts (or meltdowns). Mitchell believes this behavior is the result of Christina's past and  
8 continued attempts to alienate the children from Mitchell. Even after the parties entered into the SAO,  
9 Mia continued to tell Mitchell that Christina says he is a cheater, that Amy Stipp ("Amy"), Mitchell's  
10 wife and the children's stepmother, stole him away from Christina, that Amy is really married to  
11 someone else and not Mitchell,<sup>4</sup> that Christina hates Amy, and that the men Christina's dates will be  
12 Mia's new dad. Mitchell believes that Christina continues to communicate these items (and likely  
13 others) to Mia to harass Mitchell and Amy using Mia as a tool. These bad acts have caused Mia to  
14 suffer significant emotional trauma, which is now manifesting itself as severe mood swings and anger.  
15 During the occurrence of such an episode, Mia will grind her teeth and growl, clench her fists, and shake  
16 her arms and head violently.  
17  
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23  
24 <sup>2</sup> Mitchell has not requested a change of custody to award him primary physical custody of the children. However, if this  
25 Court believes a temporary change is warranted based on the facts of this case, Mitchell requests it subject to liberal visitation  
of the children by Christina on the terms and conditions determined by this Court. Unlike Christina, Mitchell does not want  
to prevent Christina from visiting the children.

26  
27 <sup>3</sup> It is unclear whether Ethan also has been abused (although there is no doubt he has been exposed to it). At the present time,  
primarily due to his age, Ethan does not show any signs of abuse; however, this may change as he grows older.

28 <sup>4</sup> Amy was previously married. Neither Amy nor Mitchell ever communicated this fact to Mia. There is absolutely no reason  
why they would do so. However, Mia knows the name of Amy's ex-husband and continuously asks Amy and Mitchell about  
him.

1 Christina recently observed that Mia has issues that require mental health services. At the time,  
2 she only communicated to Mitchell that Mia had clothing issues.<sup>5</sup> She communicated to Mitchell that  
3 she wanted Mia to see a mental health provider. Mitchell has recognized this same problem and agreed  
4 that Mia needed an evaluation (which he had expected would also identify Mia's emotional trauma).  
5 Christina provided to Mitchell the names of referrals she obtained to consider for Mia's treatment and  
6 began scheduling appointments to interview the therapists.  
7

8 The first appointment she scheduled was with Melissa Koladner, Psy.D., RPT-S, BCPC, a  
9 child/adolescent psychologist. Mitchell separately investigated and interviewed Dr. Koladner, paid \$200  
10 for the initial consultation, and approved her to treat Mia. At the meeting, Dr. Koladner informed  
11 Mitchell that Christina also approved of her and that Mitchell could now schedule an appointment for  
12 Mia. After the meeting, Dr. Koladner contacted Christina to inform her that Mitchell consented to Mia's  
13 treatment and that he scheduled Mia's first appointment. It is then that Christina demonstrated that she  
14 had no interest in an impartial review of Mia's issues.  
15  
16

17 According to Dr. Koladner, when she called Christina, Christina was irate. Christina  
18 communicated to Dr. Koladner that she, Christina, would not permit Dr. Koladner to evaluate Mia  
19 unless she, Christina, alone could accompany Mia to the appointment and be present in the evaluation  
20 room. Dr. Koladner informed Christina that it was immaterial who accompanied Mia to the  
21 appointment, that she wanted to evaluate Mia *without* the presence of either parent, and that Mitchell  
22 already scheduled an appointment for Mia during her next available time (which happened to occur on  
23 the day Mia would be in Mitchell's care). At that point, Christina cancelled the appointment and  
24 informed Dr. Koladner that she could not treat Mia.  
25  
26  
27  
28

<sup>5</sup> Mia refuses to wear clothing she perceives as too tight. Her clothing is several sizes larger than a child her age and size would wear. She also only wears certain outfits (only dresses and specific kinds of shoes).

1 Christina later misrepresented her concerns about Dr. Koladner to Mitchell. She falsely claimed  
2 to Mitchell that she did not want to engage Dr. Koladner because she could not afford to pay Dr.  
3 Koladner's hourly rate of \$200 per hour, when in reality the treatments would have been covered under  
4 the insurance Mitchell provides, and/or Mitchell was willing to share in the costs. In reality, Christina  
5 would only secure treatment for Mia on Christina's terms. Mitchell believes that Christina was  
6 concerned about Dr. Koladner learning of Christina's bad acts (e.g., disparaging Mitchell and Amy in  
7 front of the children). Christina is too focused on protecting her own interests by hiding her abuse of  
8 Mia rather than seeking impartial treatment for Mia from a qualified provider.  
9  
10

11 Mia is currently being treated by Dr. Joel Mishalow, Ph.D, but Christina has undermined that  
12 treatment. Christina selected Dr. Mishalow to assist Mia with her clothing issues.<sup>6</sup> Mitchell separately  
13 investigated and interviewed Dr. Mishalow, paid his initial consultation fee of \$150, and consented to  
14 his treatment of Mia. Unfortunately, Mitchell has not been given a meaningful opportunity to  
15 participate in Mia's therapy. Christina schedules all of Mia's appointments without notifying Mitchell  
16 of the appointments. She has insisted that she sit in and attend all of Mia's appointments. Mitchell is  
17 concerned that Christina has tainted the evaluation and treatment process. Mitchell's only interest is the  
18 welfare of Mia and does not believe that Mia's emotional abuse by Christina is being properly evaluated  
19 and treated with Christina's demanding that she be present at every session with Mia.  
20  
21

22 To his credit, Dr. Mishalow has provided phone updates to Mitchell on Mia's progress, and he  
23 has advised Mitchell of Christina's admission that Mia's problems go far beyond clothing issues.  
24 Indeed, Christina has stated to Dr. Mishalow that Mia has emotional outbursts and anger management  
25  
26

27  
28 <sup>6</sup> Dr. Mishalow has indicated that Mia's clothing issues may be related to an obsessive compulsive disorder. In the event that  
Mia is diagnosed with this condition, Mitchell believes that it is being aggravated by the conduct of Christina. Children with  
this disorder may perform certain acts (or rituals) to address feelings of insecurity. These feelings of insecurity may be  
aggravated by Christina's alienation of the children from Mitchell.



1 issues, but Christina is coy about admitting that to Mitchell. Christina is more concerned about hiding  
2 the true reasons for Mia's problems than determining appropriate treatment for Mia's issues.

3 ***B. Mitchell's Lack of Daily Contact Since the Most Recent Order has Exacerbated Mia's***  
4 ***Problems***

5 Mitchell used to visit both Mia and Ethan at school every day, and Mia looked forward to those  
6 visits. He can no longer do so (Christina's constant protests to school administrators about his visits  
7 likely caused them to stop the practice), and this has affected both children. Mia, for example, used to  
8 look forward to school, and delighted in sharing her daily events with Mitchell. Now, Mia, who attends  
9 school at Alexander Dawson, frequently communicates to Mitchell that she does not like school, that  
10 school is boring, and that she does not want to go to school anymore. These feelings are very different  
11 from her feelings of happiness expressed about attending Temple Beth Shalom last year when Mitchell  
12 was able to visit her every day.  
13  
14

15 Mitchell did not anticipate this change, or perhaps more importantly, did not anticipate the affect  
16 of the change upon Mia and Ethan. Mia has now become extremely reluctant to leave Mitchell. She  
17 cries and refuses to leave during each exchange back to Christina. Christina continuously fills Mia's  
18 head with notions that increase Mia's anxiety, such as advising her that she will have "a new daddy" and  
19 expressing her continued hatred of Mitchell's wife Amy, who she falsely blames for the break up of the  
20 parties' marriage. Mia needs more frequent and stable contact with Mitchell. A 5 year old should not  
21 be having the type of anxiety expressed by Mia, and the court should find the underlying cause of this  
22 problem through an impartial investigation by a trained and qualified forensic psychologist.  
23  
24

25 Mitchell strongly believes that Christina's anger toward Mitchell and his wife Amy are fueling  
26 Mia's problems. If the court has any doubt about Christina's feelings toward Mitchell and Amy, the  
27 court can review her motion for primary physical custody filed December 17, 2008 in which she spends  
28 the bulk of the brief trashing Mitchell and his family. Indeed, the court may recall that it had to

1 admonish Christina (a licensed attorney) at the hearing of February 24, 2009 to stop her angry and  
2 agitated behavior. The court's admonishments to Christina that she needed to move on from her anger  
3 have fallen on deaf ears. As evidenced in Christina's recent writings, she is still intent on personal  
4 attacks against Mitchell, Amy and his family and has no ability to control her behavior in  
5 communication with Mitchell, or her communication with the children.  
6

7 **C. Mitchell is Now Always Available to Care for the Children, a Substantial Change in**  
8 **the Circumstances that Existed at Both the Time of the Entry of the Decree and the**  
9 **Mediated Settlement.**

10 Mitchell has, for all intents and purposes, retired. He has sufficient means to provide for his  
11 family through investments, and it is his desire to ensure that he is always available to care for the  
12 children. This fact constitutes a material change that can substantially and positively affect the welfare  
13 of the children by his further contact with them.  
14

15 Mitchell's work hours have continually decreased since the time of the entry of the Decree. At  
16 the time of the entry of the Decree, Mitchell was the Chief Operating Officer and General Counsel for  
17 Plise Development & Construction, LLC ("PLISE"), which is owned and/or controlled by William Plise.  
18 PLISE became insolvent as a result of the real estate and global credit crisis of 2008. Mitchell resigned  
19 his position at PLISE in July of 2008, formed MSJM Advisors with James Moore, and MSJM Advisors  
20 entered into consulting arrangements with PLISE and its affiliates. Mitchell's workload at MSJM  
21 Advisors required no more than 20 hours per week, he had absolute control over his schedule, and he  
22 worked primarily from his residence.  
23

24 MSJM Advisors' work with PLISE ended in December of 2008; however, MSJM Advisors  
25 continued providing consulting services to certain former partners of Mr. Plise who acquired control and  
26 ownership of the eight-story office building that is part of Rainbow Sunset Pavilion located on the  
27 northwest corner of Rainbow Boulevard and Sunset Road in Las Vegas, Nevada. This consulting  
28

1 arrangement ended when the building was substantially complete in October of 2009. MSJM Advisors  
2 has no other clients or work.

3  
4 Over the last couple of months, Mitchell has evaluated his career opportunities. Mitchell has  
5 concluded that none of these opportunities will provide the personal fulfillment he desires by devoting  
6 his time to his family (specifically raising his children). Therefore, Mitchell has decided not to return to  
7 work, and he is now always available to the children. Mitchell's decision not to work will not affect his  
8 ability to meet his obligations (including paying \$2,000 per month for the support of his children), and  
9 Mitchell is not seeking to change his support obligations through this motion. Unfortunately, Christina  
10 will not modify the current timeshare arrangement to provide Mitchell more time, something that Mia  
11 would substantially benefit from now that she cannot see Mitchell daily.

12  
13 **III.**

14 **THE COURT SHOULD CONFIRM THE PARTIES AS JOINT PHYSICAL CUSTODIANS**

15 The parties agreed in the MSA that they would have joint physical custody of the children. The  
16 terms and conditions of the MSA were incorporated into the Decree except where changed by the SAO.<sup>7</sup>  
17 Since the parties entered into the SAO, the Nevada Supreme Court issued its new opinion in *Rivero v.*  
18 *Rivero*, 125 Nev. Adv. Op. 34, 216 P.3d 213 (2009), modifying the definition of joint physical custody  
19 it had expressed in its first *Rivero* opinion that the parties were operating under when negotiating their  
20 resolution.  
21

22  
23 Under *Rivero II*, the terms of a parties' custody arrangement will control except when the  
24 parties move the Court to modify the custody arrangement. 125 Nev. Adv. Op. 34 at 22. In that  
25 circumstance, the court must apply the definitions of custody set forth in *Rivero II*. Essentially, the  
26

27  
28 

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<sup>7</sup> The SAO did not change the custody status of the children.

1 court must review the parties' custody arrangement under the "40% annually" standard that the court  
2 prescribed in that case.

3 Under the formula in *Rivero II*, joint physical custody is defined as a party having a child in his  
4 or her "physical custody" approximately three days per week. *Rivero II*, 125 Nev. Adv. Op. 34-35.  
5 Mitchell's current timeshare arrangement with the children provides him normal visitation<sup>h</sup> with the  
6 children weekends from 6:00 p.m. on Fridays until 6:00 p.m. on Sundays except as follows: (1) on the  
7 first weekend of the month, Christina has the right to have the children on the weekend in which case  
8 Mitchell's time is Wednesday at 6:00 p.m. until Friday at 6:00 p.m.; and (2) on the second and fourth  
9 weekends of the month, Mitchell's weekend visitation begins on Thursdays at 6:00 p.m. Thus, Mitchell  
10 has the children in his physical custody all or part of three or four days each week.  
11

12 The fact that Mitchell has the children in his physical custody only six hours on some of those  
13 days is irrelevant under the *Rivero II* criteria. The *Rivero II* court stated:  
14

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

22 125 Nev. Adv. Op. 28-29 [Emphasis added]. On these days (like all other times Mitchell has visitation  
23 with the children), he provides for their supervision, they reside at his home, and he makes day-to-day  
24 decisions regarding activities, clothing, food, bathing, and sleep.

25 Thus, because the parties continue to share joint physical custody under the *Rivero II* formula,  
26 Mitchell's request for modification of the current timeshare must be reviewed under the criteria  
27 applicable to that timeshare. Specifically, Mitchell must show that the change in the custody  
28

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

1 arrangement is in the children's best interest. NRS 125.510(2); *Truax v. Truax*, 110 Nev. 437, 438-39,  
2 874 P.2d 10, 11 (1994).

3  
4 IV.

5 **A MODIFICATION OF THE CURRENT TIMESHARE, AND A CUSTODY ASSESSMENT, IS**  
6 **IN THE BEST INTEREST OF THE CHILDREN**

7 ***A. The Court Should Order an Assessment of the Minor Children***

8 Mia is 5 years old, and Ethan is 2.5 years old. While it has only been approximately 4 months  
9 since the parties signed the SAO, Christina's constant disparagement of Mitchell has had a significant  
10 impact on Mia. This time period is crucial in the children's development. Much of the early years of  
11 life are spent in the creation of a child's first "sense of self" or the building of a first identity. This is a  
12 crucial part of the children's makeup—how they first see themselves, how they think they should  
13 function, and how they expect others to function in relation to them. If the children do not receive  
14 sufficient parental interaction during this crucial period, or receive a warped view of the role of the  
15 parents, it may leave the children with a developmental deficit that hampers their success in life. The  
16 children must receive positive attention and affection from both of their parents to develop in a healthy  
17 manner. Mitchell believes that an assessment of the parties' relative interaction with the children will  
18 demonstrate that Christina's conscious and unconscious undermining of the children's relationship with  
19 Mitchell and his family is harming the best interest of the children, and causing Mia's emotional  
20 problems.  
21  
22

23 The SAO entered by this Court provided Mitchell more visitation time; however, the SAO was a  
24 compromise reached by the parties in mediation after a nearly eighteen (18) month long dispute, eight  
25 (8) months of which were in litigation. Settlements are by their nature imperfect and cannot be viewed  
26 as representative of the desired results of the parties. There were no winners between the parties, but the  
27 children appear to be the only losers. The SAO reflects the maximum time Christina was willing to give  
28

1 Mitchell and the minimum time Mitchell was willing to accept at the time without the financial and  
2 emotional cost and expense of continued litigation. The reality of the situation is that Christina did not  
3 want to provide Mitchell any additional time, and Mitchell wanted equal time. Both compromised, and  
4 with that compromise, Mitchell expected Christina to cooperate with Mitchell as a co-parent without the  
5 bitterness, anger, and hostility that existed from the time of their divorce. Mitchell did not anticipate  
6 that Christina would continue emotionally abusing Mia and the impact on Mia would be so severe.  
7

8 Mitchell believes that the continued emotional abuse by Christina of Mia and the resulting  
9 impact on Mia is now manifesting itself as severe mood swings and significant anger management  
10 problems. The problems are severe enough that both Christina and Mitchell believe that Mia requires  
11 the assistance of a mental health service provider. Mia is currently being treated by Dr. Mishalow;  
12 however, Mitchell does not have a significant role in the treatment and Christina's interests are not  
13 aligned with Mia. It is impossible for Mia to be fully and fairly evaluated when Christina controls the  
14 appointments and interferes in the sessions. The fact that Mia communicates to Mitchell that Christina  
15 says he is a cheater, that Amy stole him away from Christina, that Amy is really married to someone  
16 else and not Mitchell, that Christina hates Amy, and that the men that Christina dates will be Mia's new  
17 dad may only be the tip of the iceberg in terms of the abuse. Mitchell believes that more time with Mia  
18 (and Ethan) will provide the necessary stable and positive influence in the children's lives that they so  
19 desperately need. Mitchell intends to use the additional time with Mia to deal with her mood swings and  
20 anger management issues beyond treatment and to prevent any such problems with Ethan.  
21  
22  
23

24 Mia is also having significant difficulty adjusting to her new school. Mitchell is not permitted to  
25 visit Mia (or Ethan) at school on a daily basis as he has done so in the past. The children expected  
26 Mitchell to visit them when they started school in August of this year. Christina has also aggravated  
27 Mia's circumstances by communicating to Mia that Mitchell was trying to force her to attend full days  
28

1 when Mia really only wanted to attend half days. Christina is less concerned with co-parenting with  
2 Mitchell and more concerned with reprising her role as the victim divorcee who selflessly devotes her  
3 life to her children. This role is manufactured and is far from the truth. Christina's conduct of blaming  
4 Mitchell for forcing Mia to attend school full days (which caused Mia to be angry and upset) and  
5 lobbying school officials to prevent Mitchell from visiting the children at school reflects the kind of  
6 parent Christina really is: Christina puts her needs before the children. This conduct has severe  
7 consequences on Mia's welfare.  
8

9  
10 ***B. The Best Interests of the Children are Served by a Modification of the Current Timeshare***

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

13 High-conflict harms children whether it originates with the parents or is fueled by others  
14 in the adversarial system. The level and intensity of parental conflict is now thought to be  
15 the most important factor in a child's postdivorce adjustment and single best predictor of a  
16 poor outcome. Highly conflicted custody cases disrupt and distort the development of  
17 children, placing them at risk for depression and mental disorders, educational failure,  
18 alienation from parents, and substance abuse.

19 *Paradigm Shifts and Pendulum Swings in Child Custody*, Family Law Quarterly, Vol. 42, No. 3, Fall  
20 2008, page 386. The Nevada Legislature and the Nevada Supreme Court have progressively moved  
21 toward an environment that recognizes that the post divorce involvement of both parents is an essential  
22 element of the welfare of the children. In 1981, the Nevada legislature enacted NRS 125.460 in which it  
23 stated that the express policy of the state of Nevada to ensure that minor children have "frequent  
24 associations and a continuing relationship with both parents", and that "both parents share the rights and  
25 responsibilities of child rearing." The Nevada Supreme Court later found that the enactment of NRS  
26 125.460 was a "remarkable historical event," because "throughout most history legislatures and courts  
27 have been blind to the reality that most children are in most cases much better off, after their parents  
28 separate, if they can continue to have two parents rather than only one." *Mosley v. Figliuzzi*, 113 Nev.

1 51, 62, 930 P.2d 1110, 1117 (1997). In *Mosley v. Figliuzzi*, the Nevada Supreme Court eloquently  
2 expressed the broader meaning of the policy underlying NRS 125.460:

3  
4 The realization that children are better off with both parents has been a long time in  
5 coming. Throughout most child-custody litigation in the past, the child was "awarded"  
6 to one parent or the other; one parent "won" custody, and the other "lost." In either case,  
7 the child lost because the child was in many cases unnecessarily deprived of one parent.  
8 Courts, until recently, seem to have been unable to grasp the rather simple fact that most  
9 children have two loving parents and are entitled to the love of both -- to the greatest  
10 extent possible -- in the event that the two parents decide not to live together in one  
11 household.

12 [...] 13

14 There is presently a broad political and scientific consensus that children do better when  
15 they have two actively involved parents. By encouraging 'frequent associations and a  
16 continuing relationship with both parents' and by enacting the joint custody preference  
17 statute our legislature was recognizing the importance of encouraging family  
18 preservation after separation and divorce and the vital necessity for maintaining both  
19 paternal and maternal influences on children to the greatest extent possible. The  
20 legislature has recognized that the key to preserving the 'best interests' of the child lies  
21 in accepting the principle that it is not necessary for the courts, in child custody decrees,  
22 to perform a 'parentectomy.'

23 113 Nev. at 63-64. (citations omitted).

24 The following is an analysis of the factors listed under NRS 125.480 as required as part of the  
25 court's consideration of the "best interests" of the children:

26 (a) *The wishes of the child if the child is of sufficient age and capacity to form an  
27 intelligent preference as to his custody.*

28 The children are not of sufficient age to have a controlling view of their custodial relationship;  
however, the children's preferences should not be disregarded. Mia has complained to Mitchell and his  
wife Amy that she does not get to spend enough time with them, that her visits are too short, and that she  
wants to stay longer but that Christina will not allow her. Mia has expressed these preferences on a  
regular basis but more frequently starting in August of 2009. These feelings have been exacerbated by  
the fact that Mitchell is no longer permitted to visit the children at school and with Christina's emotional



1 abuse of Mia. The children are very emotional when Mitchell informs them that his visitation time with  
2 them is over on Sunday nights and they have to return to Christina's home. Mia often cries  
3 uncontrollably when told she has to return to Christina's house. Mia has also expressed anger on  
4 multiple occasions that Christina will not allow her to stay longer because "rules are the rules and we  
5 cannot change them."

7 Attached, as Exhibit B is the Affidavit of Megan Stipp who is Mitchell's sister and with whom  
8 Mitchell assigns the primary responsibility of picking up and dropping off the children during Mitchell's  
9 visitation to avoid conflicts with Christina and her family members. As Megan's affidavit demonstrates,  
10 Mia is extremely happy when Megan picks up the children at Christina's house but is extremely sad and  
11 often cries in the car when she returns the children to Christina. When the children arrive at Christina's  
12 house, many times Mia does not want to get out of the car and often fights and struggles with Christina  
13 and her relatives. The children are clearly suffering as a result of the current timeshare arrangement and  
14 will only benefit if Mitchell has equal time with them. The children have never expressed to Mitchell  
15 while in his care that they wanted to go to Christina's home (or did not want to be with him), or that they  
16 wanted to spend more time with Christina and less time with Mitchell.

19 *(b) Any nomination by a parent or a guardian for the child.*

20 Not applicable.

22 *(c) Which parent is more likely to allow the child to have frequent associations and a  
23 continuing relationship with the noncustodial parent.*

24 Again, one only needs to view Christina's actions in this matter, her attempt to continuously limit  
25 Mitchell's time with the children, and her repeatedly stated hatred of Mitchell and his wife Amy to  
26 understand that she does not intend to foster a relationship between Mitchell and the children.

27 Mitchell has provided in Subsection (d) below an email in which Christina simply "goes off" on  
28 Mitchell after he had sent her a reply email regarding the children's telephone communication.

1 Specifically, the SAO requires the custodial parent to facilitate daily telephonic communication between  
2 the non-custodial parent and the children by placing at least one (1) telephone call per day. Neither  
3 party has complied with the terms of this provision. While seemingly a good idea, the presence of this  
4 provision in the SAO has granted Christina continued opportunities to harass Mitchell and his wife Amy  
5 in front of Mia. Indeed, within weeks of reaching that agreement, Christina began to create conflict by  
6 refusing to permit the children to speak to his wife Amy (who happens to be the children's stepmother)  
7 on the telephone and disconnecting the calls if Amy spoke to the children during Mitchell's calls (even  
8 if the children asked to speak to her).  
9

10  
11 Furthermore, Christina would attempt compliance with the letter of the agreement but ignore the  
12 spirit by placing calls when the children were otherwise preoccupied (e.g., watching favorite television  
13 program, immediately before guests arrived, dinner, or snack time, or when one of the children was  
14 sleeping) so that the children would immediately want to end the call or would not participate  
15 meaningfully in the conversation, and placing calls from various phone numbers, blocked telephone  
16 identification numbers and after hours with the expectation that Mitchell would not answer. Mitchell  
17 would return all messages left by the children or call back if calls were disconnected, but Christina  
18 would never accept Mitchell's calls or have the children return his messages even when he called back  
19 multiple times (in some instances less than 30 seconds after missing a call or a call was disconnected).  
20  
21 Many times Christina or her family members caring for the children would disconnect the calls in the  
22 middle of Mitchell's conversation with the children.  
23

24 The issue of forcing the children to call the non-custodial parent became overly burdensome  
25 given Christina's bad intentions and gamesmanship. Mitchell ultimately reasoned that neither party  
26 should force the children to call the other parent, but that each should facilitate specific requests by the  
27 children to speak to the other. On each occasion when the children have asked to call Christina,  
28

1 Mitchell placed the call, and Mitchell has taught Mia how to use the phone and Christina's telephone  
2 number. If the children do not connect with Christina, he tries her again and always answers Christina's  
3 return telephone calls. Christina, on the other hand, does not place calls to Mitchell for the children any  
4 longer, and Mitchell has only spoken to the children once on the phone in several weeks (which did not  
5 even include Mia's birthday on October 19, 2009).

7 Mitchell attempted to communicate his position to Christina via email. The emails started  
8 cordially, but Christina erupted almost immediately when Mitchell requested that she refrain from  
9 making inappropriate comments to the children. The tone of Christina's emails (quoted below) are a  
10 perfect representation of why she cannot facilitate, and refuses to permit, frequent associations between  
11 Mitchell and the children.

13 *(d) The level of conflict between the parents.*

14 The level of conflict between the parents is high. This Court should simply review the previous  
15 pleadings in this matter to understand that Christina is a bitter, angry and hostile person. She still cannot  
16 deal with the damage to her pride caused by the parties' divorce and Mitchell's remarriage, and so she  
17 has sought to minimize his role as a parent through personal attacks and emotional abuse of the children.  
18 Below is a series of emails exchanged by and between Mitchell and Christina during August 1, 2009  
19 through August 3, 2009 (a little over a month after the parties entered into the SAO) which demonstrates  
20 Christina's continued bitterness, anger and hostility toward Mitchell and his wife, Amy, and the  
21 emotional impact on Mia:  
22  
23

24 On Saturday, August 1, 2009 at 10:18 PM, Christina Calderon-Stipp  
25 <[ccstipp@gmail.com](mailto:ccstipp@gmail.com)> wrote:

26 Mitchell,

27 As I emailed you earlier today to remind you, I did not receive a telephone call from our  
28 children today. I waited all day. As you know, according to the agreement we reached  
on July 8, 2009, and submitted to the Court as a Stipulation and Order, you are obligated  
to facilitate at least one call to me when the children are in your care, as they are today.

1 I hope that your deliberate violation is not a continuation of the venom and hostility you  
2 unleashed at me and my attorneys yesterday. Please note that when the children are in  
3 my care, I always make sure that they call you. I simply ask that you reciprocate, as you  
4 are now legally required to do.

5 How are our children?

6 --Christina

7 On Sunday, August 2, 2009 at 10:39 PM, Mitchell Stipp  
8 <[mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)> wrote:

9 I did not receive an email from you on Saturday other than the one attached below. With  
10 respect to the telephone call, I asked if the children wanted to call you and they declined.  
11 I have made it clear before that I will not force them to call you.

12 I also thought you should know that Mia was very upset on Friday. She informed me that  
13 you were going on a date and that the unidentified man was going to be her "new dad."  
14 She was very confused and extremely sad. I hope you understand that putting these  
15 things in Mia's head only hurt her feelings.

16 On Monday, August 3, 2009 at 1:53 PM, Christina Calderon-Stipp  
17 <[ccstipp@gmail.com](mailto:ccstipp@gmail.com)> wrote:

18 Mitchell,

19 With respect to your comments about my personal life, please keep them to yourself from  
20 now on. Mia is apparently intensely insecure about the possibility of me dating and then  
21 quickly marrying another person, NOT because I tell her these things, but because  
22 THAT'S WHAT YOU DID TO HER WITH AMY.

23 You brought Amy, with whom you had been having an affair during our marriage, into  
24 our marital bed and shared it with Mia less than 1 month after I had moved out of our  
25 family home. Mia was shocked that "Daddy's friend from work" was spending the night  
26 in Mommy's bed. Amy then moved all her clothes into Mia's Mommy's closet less than  
27 2-3 months after Mommy moved out. All this when Amy was still married to another  
28 man. THEN, if that wasn't enough, Mia's Daddy ran off and quickly married Amy less  
than 7 months after Mommy moved out, all without telling Mia or Ethan beforehand, and  
without ever giving them the chance to be part of what should have been a "family"  
ceremony for them.

Given this history, isn't it clear to you where Mia's fears come from? Mia saw me  
dressed up on Friday night and came to her own conclusions about me and a date. Sadly,  
from your email to me, it appears that she is traumatized by her father's break up of her  
family and actions in introducing someone new into the home in record time, all directly  
contrary to what our family counselor told you and all manner of studies say is healthy  
for children of divorce.

1 These are the consequences of your infidelity and continuing poor judgment. Amy  
2 wasn't the first; she was just the last. Instead of falsely accusing me of wrongdoing, look  
3 at yourself in the mirror next time and continue with your psychiatric help. It is clear that  
4 you need it.

5 --Christina

6 On Monday, August 3, 2009 at 2:45 PM, Mitchell Stipp  
7 <[mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)> wrote:

8 You have my position on the issue. If the children want to speak to you, I will facilitate  
9 the call and dial your number. This will be my last email on this issue.

10 On Monday, August 3, 2009 at 3:05 PM, Mitchell Stipp  
11 <[mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)> wrote:

12 Your allegations are false. They are simply assumptions based on your insecurity and  
13 apparently never ending investigation into the "truth." What did your investigation find?  
14 Here is the truth: You asked for a divorce; we got one; I married somebody that I love;  
15 and You hate your lonely pathetic life. Your perception is warped. It is very clear from  
16 your email who is hurting the children. Mia is well adjusted to the changes in my life and  
17 loves Amy very much. She is not traumatized by my relationship with her. She appears  
18 only to be affected by your actions and feelings regarding Amy. Mia is very smart and  
19 communicates regularly your hatred and hostility toward Amy. I think a child assessment  
20 would demonstrate these facts (which is why you did not want it). I welcome it. I have  
21 nothing to hide. I am not the crazy one. You may have Pee Wee Herman (Shawn  
22 "Super" Gaystein) fooled, but no sane person believes that you are mentally stable. This  
23 is also my last email on this issue.

24 On Monday, August 3, 2009 at 3:49 PM, Christina Calderon-Stipp  
25 <[ccstipp@gmail.com](mailto:ccstipp@gmail.com)> wrote:<sup>9</sup>

26 Mitchell,

27 You are a deeply insecure and intensely co-dependent pathetic little man. You always  
28 were, I just wanted to believe otherwise. Money will never make up for your  
insecurities. You can only feel good about yourself by putting down other people down,  
including my attorneys for some insane and unprovoked reason. You have always had a  
Napoleon/Willow complex and have always been the negative one about every little thing  
in your life even though you were truly blessed to have met and been with me for so  
long.

What you say about Mia is false. I have to deal with her questions on a daily basis,  
questions no 4-year-old should have to ask or wonder about like: Are you going to marry  
Dada again? Did you know he wears two rings, one for you and one for Amy? Amy

<sup>9</sup> Christina asserts in this email that she is forced to answer questions from Mia like "Why did Amy leave her husband?"  
Please see infra footnote 4. The only person that would have communicated to Mia that she was previously married is  
Christina.

1 says she's sorry about what she did. Why did Dada marry Amy? Why did Amy leave her  
2 husband? If Dada married you and then she chose Amy, who is next?

3 You only want an evaluation so that you can continue to mentally abuse Mia and Ethan.  
4 You want it so that you can try to rewrite history to anyone who will listen. This isn't  
5 1984. No one believes your lies anymore.

6 No one believes that you moved on with your secretary "after" our divorce, no matter  
7 how many times you say it, just as no one believes that she is with you for any reason  
8 other than your bank account.

9 My investigation revealed this: That my husband was unfaithful and spent what should  
10 have been family time chasing women he couldn't even pay to overlook his physical and  
11 mental inadequacies. You settled on an uneducated, trashy cheater just like yourself.  
12 The daughter of an alcoholic who traded in her devoted blue collar husband for her  
13 attorney boss. A man that courted her by spitting gum at her on his way past her office  
14 and giving her a Cartier watch and a \$7500 cash bonus for Christmas for her "services."

15 It is clear that you throw Amy at the children and vice versa because you fear that like  
16 you did to me, and she did to James, she will dump your ass as soon as the next best  
17 indecent proposal comes her way. Maybe you feel that having her next to you like velcro  
18 and ingratiated into the lives of our children will prevent her from leaving. Guess what?  
19 She will.

20 You bought Heather, the leasing coordinator who preceded Amy, a brand new BMW, but  
21 she dumped your ass anyway in favor of her felon live-in boyfriend (not to be confused  
22 with the estranged husband she had that you paid Paul Lemcke to get her divorced from).  
23 She wasn't even a U.S. citizen and had a criminal record. She and her boyfriend told me  
24 that you wouldn't stop calling her even after she let you go. You finally did when the  
25 felon threatened to kick your ass, which he should have done.

26 Then there was Pamela, your buddy Jon Field's sloppy seconds. She was a stripper at the  
27 Rhino who loved your relation\$\$\$hip until you probably maxed out your credit cards on  
28 her. But that didn't stop you from calling her 20 times a day for three months.

29 Then there were the Redstone grille/Sammy's/Kobe sushi/Starbucks waitresses who  
30 always seemed to go for your taller, charming and sexier boss over you. Can you blame  
31 them? I don't.

32 So what did you wind up with after I caught your pathetic phone call to Amy, your  
33 subordinate employee, complaining about why she didn't answer your weekend calls and  
34 asking whether she fucked her own husband or not after your tiff with her??? You got  
35 yourself the uneducated daughter of an alcoholic. Mexican trash from Texas looking to  
36 snag herself a rich man to put her through the prestigious University of Phoenix. This  
37 when you cry about not wanting to pay for your own children's preschool.

38 Looks like you're the real winner here. :-) You may not be "alone," but let me tell  
you something, you will always be lonely and so will she, because you are both terrible,

1 empty people. indecent home wreckers who deserve each other and the misery you will  
2 both bring to each other.

3 Trust me. I can buy myself a male Amy. They are a dime a dozen out here. I'm sure  
4 Amy considers marriage to you as just a promotion. At first she was "only" getting 80k a  
5 year (straight out of high school) to be your "secretary." The nominal sum you criticize  
6 Shawn for making. Now she gets half of your \$\$\$ in exchange for providing the same  
7 services. Can you blame her for jumping ship? Not in your sick world you can't.

8 It's funny how you say one thing in writing but another in person when she's not around.  
9 like how incredibly unhappy you are with her, how you regret your actions and misdeeds  
10 towards me and how you think about them every day of your life.

11 You *should* think about it. You lost the best thing, besides our children, that will ever  
12 happen to you. You never deserved me. No one thought so, it just took me a while to see  
13 it too. And as for having a "lonely, pathetic life," only you would say or wish such a  
14 thing. I have never been happier to be free from the torture of being around you.  
15 Divorce liberated me from what would have been a lifetime of pain and misery.  
16 Hallelujah!

17 (See emails collectively attached as Exhibit C hereto).

18 Christina's own words represent an intense need to insult Mitchell and his wife Amy and  
19 demonstrate the merit of Mitchell's concerns about her improper statements and behavior toward the  
20 children, particularly Mia. Christina's reaction to Mitchell's email completely ignores Mitchell's  
21 concern about the emotional impact upon Mia. Mia's conclusion that Christina's date was going to be  
22 her "new dad" likely came from Christina, and if it did not, Christina could have assured Mitchell that  
23 she would talk to Mia when she returned home and explain to her that it was not the case. Instead,  
24 Christina told Mitchell to mind his own business and unleashed an unprovoked attack on Mitchell and  
25 Amy while at the same time asserting that Mitchell was the hostile one and in need of psychological  
26 help.

27 Christina's personal feelings about the parties' divorce continue to affect her and the children.  
28 Mitchell requests that the court direct the parties to a plan granting each equal time and frequent  
associations with the children so that he can better address the problems Christina's actions and words

1 are causing Mia. Moreover, the court should direct an assessment under which a forensic psychologist  
2 can get to the bottom of the emotional problems that Mia is exhibiting.

3  
4 *(e) The ability of the parents to cooperate to meet the needs of the child.*

5 Mitchell has done everything he can do to cooperate with Christina on issues affecting the  
6 children; however, Christina insists on complete control of parenting matters and often disregards  
7 Mitchell's input or suggestions and/or uses the children to attack Mitchell when he fails to agree or  
8 otherwise asserts his opinion.

9  
10 Mia is being treated by Dr. Mishalow for clothing and anger management issues. Mitchell has  
11 participated in the process of engaging Dr. Mishalow, but Christina has excluded Mitchell from Mia's  
12 treatment. Christina is likely the source of Mia's emotional issues and is not the proper person to  
13 facilitate Mia's treatment.

14 Mitchell regularly communicates to Christina any healthcare matters affecting the children while  
15 the children are in his care and responds to all of Christina's emails regarding the same. Mitchell has  
16 actively participated in the process of selecting schools for the children for the next school year.  
17 Attached as Exhibit D is the email correspondence by and between Mitchell and Christina (including  
18 correspondence with Mia's school) regarding health and school matters affecting the children.  
19

20  
21 *(f) The mental and physical health of the parents.*

22 Christina's continued bitterness, anger and hostility may suggest psychological problems. As  
23 part of any assessment of the problems Mia is suffering, it is likely that the parties will be  
24 psychologically tested, and Mitchell would welcome such examination to determine the extent of  
25 Christina's hostility, and its effect on the children.  
26  
27  
28



1           (g)     *The physical, developmental and emotional needs of the child.*

2           Mitchell's consistent and regular contact with the parties' very young children is supported,  
3 again, by virtually all psychological studies, which studies uniformly suggest that contact between  
4 parents and young children be frequent and meaningful, and include overnights. See, e.g., the  
5 comprehensive study of the body of psychological data on infants and toddlers found in Family and  
6 Conciliation Courts Review; Los Angeles Jul 2000 Joann B Kelly; Michael E Lamb; Volume: 38 Issue:  
7 3: 297-311, Sage Publications. ISSN: 1047569. Under the current timeshare plan, Mitchell is now  
8 precluded from seeing the children for several days at a time. He no longer is permitted to visit them  
9 while at school, and he does not have any communication with the children while they are in the care of  
10 Christina. It is since that regular contact ended that Mia has begun to show the ill effects of Christina's  
11 actions and words.  
12

13           (h)     *The nature of the relationship of the child with each parent.*

14           The children both have a loving and warm relationship with Mitchell and seemingly with  
15 Christina; however, Mia is starting to appreciate the emotional trauma Christina has caused her. Mia  
16 recently told Mitchell that she wanted to "punch her mother in the face." Mitchell does not believe that  
17 this type of directed anger, and the accompanying histrionics, are normal for a 5 year old. The court  
18 needs to investigate and develop a better understanding of the root of these issues.  
19  
20  
21

22           (i)     *The ability of the child to maintain a relationship with any sibling.*

23           Neither party is suggesting that the children be split; however, Mitchell and his wife, Amy, are  
24 planning to have children and would like the children to have a significant role in their lives.  
25

26           (j)     *Any history of parental abuse or neglect of the child or a sibling of the child.*

27           None; however, Mitchell believes that Christina's alienation of the children from Mitchell constitutes  
28 emotional abuse. Christina's behavior has not changed since the parties' divorce or after the SAO.

1           (k)   *Whether either parent or any other person seeking custody has engaged in an act*  
2           *of domestic violence against the child, a parent of the child or any other person*  
3           *residing with the child.*

4           Mitchell has not engaged in any act of domestic violence; however, Christina continues to harass  
5           Mitchell and his wife, Amy, and emotionally abuse the children.

6           As can be seen from an application of the appropriate factors, there is adequate basis on the  
7           issue of Mitchell's request for additional time (an equal timeshare) with the children, and a child  
8           custody assessment. Mitchell believes that Mia's emotional issues arise from Christina's undisguised  
9           hatred of Mitchell and Amy, but regardless of the parties positions on that issue, the fact remains that a  
10          5 year old is acting in a manner that both parties believe requires her to attend therapy. The court  
11          should intervene and make efforts to determine the root of the problem, and enter its orders in the best  
12          interest of the children.  
13  
14          ...  
15          ...  
16          ...  
17          ...  
18          ...  
19          ...  
20          ...  
21          ...  
22          ...  
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24          ...  
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26          ...  
27          ...  
28          ...

V.

CONCLUSION

Based upon the foregoing, Mitchell requests that this court:

1. Confirm the parties' status as joint physical custodians;
2. Modify the timeshare of the children to grant the parties equal time and more frequent associations with the children; and,
3. Order a child custody assessment to determine the root of the parties' children's emotional problems.

DATED this 29<sup>th</sup> day of October 2009.

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.

Nevada Bar No. 002791

64 N. Pecos Road, Suite 700

Henderson, Nevada 89074

(702) 990-6448

Attorneys for Defendant Mitchell D. Stipp

**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 "DEFENDANT'S MOTION TO CONFIRM PARTIES AS JOINT PHYSICAL CUSTODIANS AND TO MODIFY TIMESHARE ARRANGEMENT" on this 29<sup>th</sup> day of October 2009, to all interested parties as follows:

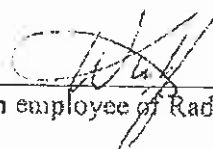
☒ BY MAIL: Pursuant To NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows:

☒ 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:

James J. Jimmerson, Esq. and  
Shawn M. Goldstein, Esq.  
415 S. Sixth Street #100  
Las Vegas, Nevada 89101  
Fax: 702-387-1167  
Attorneys for Plaintiff

  
An employee of Radford J. Smith, Chartered

**MOTION  
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. That I have personal knowledge of the facts contained herein, and I am competent to testify thereto. I am the Defendant in the case of *Stipp v. Stipp*, case number D08-389203-Z, in the Eighth Judicial District Court, State of Nevada. I submit this affidavit in support of my Motion to Confirm Parties as Joint Physical Custodians and to Modify Joint Timeshare Arrangement.

2. Christina Calderon-Stipp ("Christina") and I have two children, Mia Elena Stipp ("Mia"), born October 19, 2004, and Ethan Christopher Stipp ("Ethan"), born March 24, 2007. The Eighth Judicial Court for the State of Nevada (the "Court") entered our Decree of Divorce on March 6, 2008 (the "Decree") upon our joint petition for divorce filed in February of 2008. The Decree incorporates the terms and conditions of our marital settlement agreement entered into and dated as of February 20, 2008 ("MSA"). From the date of the entry of the Decree in March of 2008 until December of 2008, a period of approximately ten (10) months, I tried to obtain without litigation more visitation time with the children. Christina refused to provide me more time and instead filed a motion to confirm her as the primary physical custodian on December 17, 2008,<sup>1</sup> even after I made a request for and the Court ordered mediation in December of 2008. I vigorously opposed Christina's motion and filed a countermotion seeking additional time with the children. We attended mediation and no resolution

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<sup>1</sup> Christina did not seek to move out of state, she did not seek to alter the timeshare arrangement, and she did not seek to alter my child support obligations, which are the instances in which the status of physical custody matter.

1 occurred. The Court denied our motions at a hearing held on February 24, 2009 during which the Court  
2 indicated that I should have more time with the children. I later filed a motion for reconsideration or in  
3 the alternative a motion to modify the timeshare arrangement on April 27, 2009. At the hearing on my  
4 motion held on June 4, 2009, the Court again ordered us to attend mediation. We attended mediation  
5 and modified the terms of the MSA through a stipulation and order signed on July 8, 2009 and entered  
6 by the Court on August 7, 2009 ("SAO"). Under the MSA and SAO, Christina and I have joint physical  
7 custody of the children. However, since we entered into the SAO, Nevada law regarding physical  
8 custody has changed. Christina and I never intended to have custody of the children other than as joint  
9 physical custodians. I also never expected the definition of "joint physical custody" to change at the  
10 time I signed the SAO which now unfairly imposes upon me additional legal burdens that previously  
11 failed to exist in order to change the current visitation schedule.  
12

13  
14 3. Christina's bad acts have likely caused Mia to suffer emotional trauma.<sup>2</sup> Mia only  
15 recently began to show signs of this trauma as severe mood swings and emotional outbursts or  
16 meltdowns. I believe this behavior is the result of Christina's continued attempts to alienate the children  
17 from me. Even after we entered into the SAO, Mia continued to tell me that Christina still says I am a  
18 cheater, that Amy Stipp ("Amy"), my wife and the children's stepmother, stole me away from Christina,  
19 that Amy is really married to someone else and not me,<sup>3</sup> that Christina hates Amy, and that any man that  
20 Christina dates will be Mia's new dad. I believe that Christina continues to communicate these items  
21  
22  
23

24  
25 <sup>2</sup> Mia shows signs of emotional trauma; however, the source of Mia's trauma has not been determined by a qualified  
26 psychologist.

27 <sup>3</sup> Amy was previously married to James Upp. Amy and I never communicated this fact to Mia. There is absolutely no reason  
28 why we would ever do so. However, Mia knows the name of Amy's ex-husband and continuously asks Amy and me about  
"James."

1 (and likely others) to Mia to harass Amy and I using Mia as a tool. Mia now also regularly reports to  
2 Amy and I that Christina often shows her wedding pictures of Christina and me when we were married.

3  
4 4. When Mia confronts Amy or me with these items described in paragraph 3 above, which  
5 occurs almost every visitation period since Christina and me entered into the SAO. Amy and I try to  
6 explain them to Mia to the extent appropriate. Amy and I tell Mia that I am not a cheater, that I was  
7 married to Christina but now am married to Amy, that Amy and I like Christina and that Christina really  
8 does like Amy, that Christina is a good person and loves Mia very much, that Amy was married before  
9 to "James" but now she is married to me, and that I am her dad but may be some day she will have a  
10 stepdad if Christina re-marries. Mia often refuses to accept these explanations provided by Amy and  
11 me. She will become argumentative and will say that "you are wrong, "that is not true" and "you are  
12 lying."

13  
14 5. These discussions described in paragraph 4 above all have been initiated by Mia without  
15 warning. Since Christina and I entered into the SAO, Mia has been swimming in the pool, driving in the  
16 car, using the toilet in the bathroom stall of a department store, or finishing a bath, and out of no where  
17 confront Amy and me with these alleged "truths" that Mia communicates Christina told her. By the end  
18 of such a discussion, Mia instantly transforms into an out of control child. Mia will grind her teeth and  
19 growl, clench her fists, and shake her arms and head violently. I deal with these meltdowns by  
20 embracing her and telling her that I love her and not to be mad until she eventually begins to cry  
21 uncontrollably. These episodes sometimes last as long as thirty (30) or forty-five (45) minutes. Many  
22 times afterwards Mia is physically exhausted and will lie down in her bed, on the couch, or fall asleep in  
23 her car seat.  
24  
25  
26  
27  
28



1           6.       Since the SAO, Christina observed that Mia has issues that she believed required mental  
2 health services. At the time, she only communicated to me that Mia had clothing issues.<sup>4</sup> She  
3 communicated to me that she wanted Mia to see a mental health provider. I recognized this same  
4 problem and agreed that Mia needed an evaluation (which I had expected would also identify Mia's  
5 emotional trauma). Christina provided to me the names of referrals she obtained to consider for Mia's  
6 treatment and began scheduling appointments to interview the therapists. The first appointment she  
7 scheduled was with Melissa Koladner, Psy.D., RPT-S, BCPC, a child/adolescent psychologist. I  
8 separately investigated and interviewed Dr. Koladner, paid \$200 for the initial consultation, and  
9 approved her to treat Mia. At the meeting, Dr. Koladner informed me that Christina also approved of  
10 her and that I could now schedule an appointment for Mia. After the meeting, Dr. Koladner contacted  
11 Christina to inform her that I consented to Mia's treatment and that I scheduled Mia's first appointment.  
12 According to Dr. Koladner, Christina was irate. Dr. Koladner communicated to me that Christina would  
13 not permit her to evaluate Mia unless Christina alone could accompany Mia to the appointment and also  
14 be present in the evaluation room. Dr. Koladner informed me that she communicated to Christina that it  
15 was immaterial who accompanied Mia to the appointment, that she wanted to evaluate Mia without the  
16 presence of either parent, and that I already scheduled an appointment for Mia during her next available  
17 time (which happened to occur on the day Mia would be in my care). At that point, Christina cancelled  
18 the appointment and according to Dr. Koladner told her that she could not treat Mia. Christina later  
19 emailed me that she did not want to engage Dr. Koladner because she could not afford to pay Dr.  
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28

<sup>4</sup> Mia refuses to wear clothing she perceives as too tight. Her clothing is several sizes larger than a child her age and size would wear. She also only wears certain outfits (only dresses and specific kinds of shoes).

1 Koladner's hourly rate of \$200 per hour.<sup>5</sup> It is clear that Christina would only secure treatment for Mia  
2 on her terms. Mitchell believes that Christina was concerned about Dr. Koladner learning of Christina's  
3 bad acts (e.g., disparaging Mitchell and Amy in front of the children). Christina is too focused on  
4 protecting her own interests rather than seeking treatment for Mia from a qualified provider which is in  
5 the best interests of Mia.  
6

7 7. Mia is currently being treated by Dr. Joel Mishalow, Ph.D. Christina selected Dr.  
8 Mishalow to assist Mia with her clothing issues.<sup>6</sup> I separately investigated and interviewed Dr.  
9 Mishalow, paid his initial consultation fee of \$150, and consented to his treatment of Mia.  
10 Unfortunately, I have not been given a meaningful opportunity to participate in Mia's therapy. Christina  
11 schedules all of Mia's appointments; however, Dr. Mishalow has spent little to no time evaluating Mia  
12 without the presence of Christina. I have been provided telephonic updates from Dr. Mishalow  
13 regarding Mia's progress (including the fact that Christina has communicated to Dr. Mishalow that Mia  
14 has anger management issues); however, I am concerned that Christina has tainted the evaluation and  
15 treatment process and that the existence of Mia's emotional trauma will not be uncovered and treated.  
16 My only interest is the welfare of Mia, and I do not believe that Mia's mental health issues are being  
17 properly evaluated and treated with Christina's exclusive control of the process.  
18  
19

20 8. Both Mia and Ethan attend pre-school. Mia attends Alexander Dawson and Ethan  
21 attends Temple Beth Shalom ("TBS") for the 2009-2010 school year. During the 2008-2009 school  
22 year, I visited the children on a daily basis at pre-school for approximately one (1) hour each day. I  
23

---

24 <sup>5</sup> I pay for medical insurance for the children and have not asked Christina to reimburse me for the premiums. Mia's  
25 treatments would be covered by insurance. I am also willing to pay directly for these costs and expenses.

26 <sup>6</sup> Dr. Mishalow has indicated to me that Mia's clothing issues may be related to an obsessive compulsive disorder. In the  
27 event that Mia is diagnosed with this condition, I believe that such a condition may be aggravated by the bad conduct of  
28 Christina.

1 value daily contact with the children and the children enjoyed seeing me everyday. At the time, both  
2 Mia and Ethan attended TBS and their teachers and administration welcomed my attendance and  
3 participation. Unfortunately, the teachers and administration at TBS and Alexander Dawson do not  
4 permit me to have daily visits. Christina vehemently objected to me visiting the children while at school  
5 during the 2008-2009 school year, and I believe that Christina has influenced the teachers and  
6 administrators at Alexander Dawson to adopt her view and in the case of TBS change their position. In  
7 fact, since the start of the school year at the end of August of 2009, I have not been able to visit the  
8 children while at school. Furthermore, Christina does not permit me to have visitation with the children  
9 other than as set forth in the current timeshare arrangement. Therefore, under these circumstances, I no  
10 longer have daily visitation with the children and the children are suffering as a result of it (especially  
11 Mia). Mia frequently communicates to me that she does not like school, that school is boring, and that  
12 she does not want to go to school anymore. These feelings are very different than her feelings of  
13 happiness expressed about attending TBS last year when I was able to visit her every day.

14  
15  
16  
17 9. Christina asserts control over all matters related to the children's school. According to  
18 Christina, Mia apparently expressed a desire to attend school full days rather than half days for the  
19 current school year. I supported the idea if Mia wanted to attend. Christina allowed Mia to attend full  
20 days with the school's permission on a trial basis for a few days. According to Christina, Mia's teachers  
21 informed Christina that Mia did well and that they recommended to Christina that Mia make the  
22 transition to full days. At that time, Christina contacted me to inquire whether I would pay one-half  
23 (1/2) of the increased costs of tuition and set a deadline for my response. I timely responded and offered  
24 to pay one-half (1/2) of the amount. After doing so, Christina communicated to me that Mia changed  
25 her mind over the weekend and that she would not be making the transition. As far as I knew, Mia did  
26 well during the days she attended full time, and the school recommended to Christina to make the  
27  
28

1 transition. Christina did not communicate to me that she had any reservations or issues with Mia  
2 attending school full time. Accordingly, I told Christina not to wait but immediately enroll Mia full  
3 time. Later in the week, Mia called me and informed me that she was mad at me because Christina told  
4 her that I was forcing her to go to school full time and that she did not want to go. Why kind of parent  
5 would tell a child this? Mia was already having difficult adjusting to school and believed that I was  
6 forcing her to attend school for even more time.  
7

8 10. I responded to Mia's telephone call by sending Christina a private email that Christina  
9 simply ignored at the time but inappropriately forwarded to Alexander Dawson's Early Childhood  
10 Center Director, Tara Hall. This act was clearly designed to embarrass me and drive a wedge between  
11 the school and me since I addressed Christina with severe criticism. I was clearly upset by Christina's  
12 manipulation of Mia and mismanagement of this parental matter. Simply put, Christina was not acting  
13 in the best interests of Mia. While there is no excuse for this reaction, every person has a breaking  
14 point, and I should not have to endure Christina's use of the children to attack him, and Mia should not  
15 have to suffer as a result of Christina's tactics. Ultimately, I withdrew his support for Mia to attend full  
16 days because she was clearly affected by the idea of me forcing her to attend full days and  
17 communicated to Christina my extreme displeasure with the situation. While my choice of words is not  
18 preferable, it demonstrates my frustration with Christina who only sees me as a bank account and not a  
19 parent who cares about the children. Christina's manipulation of Mia is a prime example of using Mia  
20 to alienate me from her (and driving a wedge between Mia's teachers and administration and me).  
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24 11. The current timeshare arrangement fails to provide me the time I desire to spend with  
25 the children, and I am unable to reach a resolution with Christina. Notwithstanding these issues, my  
26 ability to have daily contact with the children should not depend on the discretion of the teachers and  
27 administrators of the children's school (which may change from school to school and year to year).  
28

1 also now recognize that it may not be feasible to visit the children at school during the next twelve (12)  
2 years of their elementary and secondary education. At least with equal time, however, I will have an  
3 opportunity to drop off and pick up the children at school and interact with the school administrators and  
4 teachers on a weekly basis.  
5

6 12. MSJM Advisors, LLC ("MSJM Advisors") was a real estate consulting firm I started  
7 with James Moore in June of 2008. Previously, I was the Chief Operating Officer and General Counsel  
8 for Plise Development & Construction, LLC ("PLISE"), which is owned and/or controlled by William  
9 Plise. PLISE became insolvent as a result of the real estate and global credit crisis of 2008. I resigned  
10 my position at PLISE in July of 2008, formed MSJM Advisors with Mr. Moore, and MSJM Advisors  
11 entered into consulting arrangements with PLISE and its affiliates. My workload at MSJM Advisors  
12 required no more than twenty (20) hours per week. I had absolute control over my schedule, and I  
13 worked primarily from my residence. MSJM Advisors' work with PLISE ended in December of 2008;  
14 however, MSJM Advisors continued providing consulting services to certain former partners of Mr.  
15 Plise who acquired control and ownership of the eight story office building that is part of Rainbow  
16 Sunset Pavilion located on the northwest corner of Rainbow Boulevard and Sunset Road in Las Vegas,  
17 Nevada. This consulting arrangement ended when the building was substantially complete in October of  
18 2009. MSJM Advisors has no other clients or work. Over the last couple of months, I have evaluated  
19 my career opportunities. I have been offered lucrative positions with other real estate developers. I also  
20 explored returning to private practice at a law firm. I have concluded that none of these opportunities  
21 will provide the personal fulfillment I desire by devoting my time to my family (specifically raising my  
22 children). Therefore, I have decided not to return to work and would like to spend more time with my  
23 children. My decision not to work will not affect my ability to meet my obligations (including paying  
24 \$2,000 per month for the support of my children), and I am not seeking to change my support  
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obligations through this motion. Unfortunately, Christina will not modify the current timeshare arrangement to provide me more time.

13. Mitchell is married to Amy. Amy and I have decided to have children. I would like Mia and Ethan to have significant roles in their siblings' lives beginning at birth. Under the current timeshare arrangement, Mia and Ethan will have limited opportunities to spend time with their siblings.

14. Mia has complained to Amy and me that she does not get to spend enough time with us, that her visits are too short, and that she wants to stay longer but that Christina will not allow her. Mia has expressed these preferences on a regular basis starting at the beginning of the 2009-2010 school year. The children are very emotional when I inform them that my visitation time with them is over on Sunday nights and they have to return to Christina's home. Mia often cries uncontrollably when told she has to return to Christina's house. Mia has also expressed anger on multiple occasions that Christina will not allow her to stay longer because "rules are the rules and we cannot change them." The children are clearly suffering as a result of the current timeshare arrangement and will only benefit if I have equal time with them. The children have never expressed to me while in my care that they wanted to go to Christina's home (or did not want to be with me), or that they wanted to spend more time with Christina and less time with me.

15. Christina and I have not complied with the SAO which requires the custodial parent to facilitate daily telephonic communication between the non-custodial parent and the children by placing at least one (1) telephone call per day. Any statement by Christina that she has complied (either materially or substantially) with the SAO would be false. The fact is that Christina insisted on having this provision in the SAO simply to harass Amy and me. Within weeks after reaching this agreement, Christina began to create conflict by refusing to permit the children to speak to Amy (who happens to be the children's stepmother) on the telephone and disconnecting the calls if Amy spoke to the children

1 during my calls (even if the children asked to speak to her). Furthermore, Christina would place calls  
2 when the children were otherwise preoccupied (e.g., watching favorite television program, immediately  
3 before guests arrived, dinner, or snack time, or when one of the children was sleeping) so that the  
4 children would immediately want to end the call or would not participate meaningfully in the  
5 conversation, and place calls from various phone numbers, blocked telephone identification numbers  
6 and after hours with the expectation that I would not answer. I would return all messages left by the  
7 children or call back if calls were disconnected, but Christina would never accept my calls or have the  
8 children return my messages even when I called back multiple times (in some instances less than thirty  
9 (30) seconds after missing a call or a call was disconnected). Many times Christina or her family  
10 members caring for the children would disconnect the calls in the middle of my conversation with the  
11 children.  
12

13  
14 16. The issue of forcing the children to call the non-custodial parent became overly  
15 burdensome given Christina's bad intentions and gamesmanship. I ultimately decided that I would not  
16 force the children to call Christina but would only facilitate specific requests by the children to speak to  
17 their mother. I have taught Mia, and Mia knows how to use the telephone and dial Christina's telephone  
18 number. In the past, when the children asked to call their mother, I placed the call and if I could not  
19 connect with Christina, I would call multiple times on behalf of the children, and I always answered  
20 Christina's return telephone calls. The end result of this decision is that Christina does not place calls to  
21 me for the children any longer, and I have only spoken to the children once on the phone in several  
22 weeks (which did not include Mia's birthday on October 19, 2009). While I would welcome the  
23 opportunity to speak to the children daily, I am not willing to be harassed by Christina. Given the  
24 disparity in the timeshare arrangement, I depend more on receiving telephone calls from the children;  
25 however, it is entirely too painful to wait all day for the children to call and not be able to speak to them.  
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1 to have calls disconnected in the middle of conversations, or to have to explain to Mia why she cannot  
2 speak to Amy on the phone. It is for these reasons that having equal time with the children is so  
3 important to me.  
4

5 17. I have done everything I can do to cooperate with Christina on issues affecting the  
6 children; however, Christina insists on complete control of parenting matters and often disregards my  
7 input or suggestions and/or uses the children to attack me when I fail to agree or otherwise assert my  
8 opinion.  
9

10 18. I regularly communicate to Christina any health and welfare matters affecting the  
11 children while the children are in my care and respond to all of Christina's emails regarding the same.<sup>7</sup>  
12

13 19. I have actively participated in the process of selecting schools for the children for the  
14 2010-2011 school year.  
15

16 20. Mia has expressed significant anger toward Christina. Mia recently told me that she  
17 wanted to "punch her mother in the face."  
18

19 21. I have not engaged in any act of domestic violence; however, Christina continues to  
20 harass Amy and me.  
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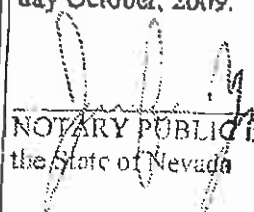
25 <sup>7</sup> I have prepared a form email response which is sent automatically when I receive an email from Christina. I also do not  
26 accept text messages from Christina. I only respond specifically to emails concerning the health and welfare of the children.  
27 All other email responses receive the automatic response as the only response. Text messages are not received. I believe that  
28 restricting written communication in this manner has significantly reduced the "war of words" between the Christina and me.

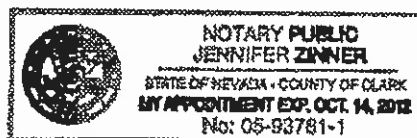


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2 FURTHER, AFFIANT SAYETH NOT.  
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4   
5 MITCHELL DAVID STIPP  
6

7 Subscribed and sworn before me this 26th  
8 day October, 2009.

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10 NOTARY PUBLIC in and for  
11 the State of Nevada  
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**MOTION  
EXHIBIT “B”**

AFFIDAVIT OF MEGAN CANTRELL

STATE OF NEVADA )

COUNTY OF CLARK )

) ss:

1. MEGAN CANTRELL, being first duly sworn, deposes and states:

1. That I have personal knowledge of the facts contained herein, and I am competent to testify thereto. I am the sister of Mitchell D. Stipp ("Mitchell"), Defendant in the case of *Stipp v. Stipp*, case number D08-389203-Z in the Eighth Judicial District Court, State of Nevada. I submit this affidavit in support of Mitchell's Motion to Confirm Parties as Joint Physical Custodians and to Modify Joint Timeshare Arrangement.

2. I have picked up and dropped off Mia Stipp and Ethan Stipp before and after Mitchell's visitation times with the children regularly for several months. When I pick the children up from Christina Stipp's ("Christina") house, the children are very happy and excited to see Mitchell and Amy Stipp, Mitchell's wife. Christina and her relatives never have any problems getting the children into the car for the rides to Mitchell's house. During the car rides back to Christina's house, however, Mia has complained to me that she does not get to spend enough time with Mitchell and Amy, that her visits are too short, and that she wants to stay longer but that Christina will not allow her. Mia has made these statements to me on a regular basis starting at the end of August or beginning of September of 2009. Ethan will often say "I miss Daddy." The children are very emotional during these times, and I have never seen the children so sad and unhappy. Mia often cries and expresses anger that Christina will not allow her to stay longer. When I drop the children off at Christina's house, many times Mia does not want to get out of the car and often fights and struggles with Christina and her relatives. Mia has confronted Christina about her desires, and Christina has informed Mia in my presence that "there is nothing she can do" and "rules are the rules and we cannot change them." The children clearly desire to spend more time with Mitchell.

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2 FURTHER, AFFIANT SAYETH NOT.  
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4  
5   
6 MEGAN CANTRELL

7 Subscribed and sworn before me this 26  
8 day October, 2009.

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10 NOTARY PUBLIC in and for  
11 the State of Nevada  
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**MOTION  
EXHIBIT “C”**

10/28/2009

here.

I am not saying that I don't want the children to ever speak to Amy on the phone, I simply ask that you not force the children to speak to Amy, or anyone else for that matter, if they don't ask to speak to her/them. I don't pass the phone around like a hot potato when it's my turn to talk to the kids when they are in your care. I have more consideration for your time with the children than you do towards me. I simply ask you to reciprocate.

From: Christina Calderon-Stipp <<mailto:ccstipp@gmail.com>  
ccstipp@gmail.com>  
To: Mitchell Stipp <<mailto:mitchell.stipp@yahoo.com>  
mitchell.stipp@yahoo.com>  
Sent: Saturday, August 1, 2009 10:18:51 PM  
Subject: Violation of Stipulation and Order--No Telephone Call 8.1.09

Mitchell,

As I emailed you earlier today to remind you, I did not receive a telephone call from our children today. I waited all day. As you know, according to the agreement we reached on July 8, 2009, and submitted to the Court as a Stipulation and Order, you are obligated to facilitate at least one call to me when the children are in your care, as they are today.

I hope that your deliberate violation is not a continuation of the venom and hostility you unleashed at me and my attorneys yesterday. Please note that when the children are in my care, I always make sure that they call you. I simply ask that you reciprocate, as you are now legally required to do.

How are our children?

--Christina

On Sun, Aug 2, 2009 at 10:39 PM, Mitchell Stipp <

10/29/2009

<mailto:mitchell.slipp@yahoo.com> mitchell.slipp@yahoo.com> wrote:

I did not receive an email from you on Saturday other than the one attached below. With respect to the telephone call, I asked if the children wanted to call you and they declined. I have made it clear before that I will not force them to call you.

I also thought you should know that Mia was very upset on Friday. She informed me that you were going on a date and that the unidentified man was going to be her "new dad." She was very confused and extremely sad. I hope you understand that putting these things in Mia's head only hurt her feelings.

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Monday, August 03, 2009 1:34 PM  
To: Mitchell Slipp  
Subject: Re: Violation of Stipulation and Order--No Telephone Call 8.1.09

Mitchell,

With all due respect, your email response below is complete and utter bullshit. It sets out your old position, prior to our July 8th mediation, in which you claimed that you would not place a call to me on behalf of our extremely young children unless they "asked you to."

In practice, this equated with the reality that from February 24, 2009 until June 4, 2009, the two most recent hearings in our case, you facilitated exactly ONE telephone call to me. In contrast, I was facilitating very regular, if not daily, contact between the children to you when I had them.

I didn't agree with your position on facilitating telephonic communication then, which, by the way, is clearly required by the MSA that you drafted and now by the most recent Stip and Order, and I do not agree with it now.

We resolved our dispute on this issue when we met with the Family Court mediator on July 8, 2009 at which time you signed your name to a stipulation that now requires you to place a telephone call to me to allow me to talk to our kids when you have them "at least once per day."

10/29/2009

It is hard to believe that you could not have had the children call me once this entire weekend in which you had them. In addition, you could have very easily written me a text or email responding to my request for a phone call promptly, but chose, instead, to wait two days to do so, when you no longer had the children.

I recognize this as yet another attempt by you at creating yet another one of your unending conflicts, and I ask you to reconsider your position not only because it is contrary to law, but because it will only hurt our children to have your animosity towards me continue to affect their communication with me.

Thanks,

Christina

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Monday, August 03, 2009 1:53 PM  
To: Mitchell Stipp  
Subject: Re: Violation of Stipulation and Order--No Telephone Call 8.1.09

Mitchell,

With respect to your comments about my personal life, please keep them to yourself from now on. Mia is apparently intensely insecure about the possibility of me dating and then quickly marrying another person, NOT because I tell her these things, but because THAT'S WHAT YOU DID TO HER WITH AMY.

You brought Amy, with whom you had been having an affair during our marriage, into our marital bed and shared it with Mia less than 1 month after I had moved out of our family home. Mia was shocked that "Daddy's friend from work" was spending the night in Mommy's bed. Amy then moved all her clothes into Mia's Mommy's closet less than 2-3 months after Mommy moved out. All this when Amy was still married to another man. THEN, if that wasn't enough, Mia's Daddy ran off and quickly married Amy less than 7 months after Mommy moved out, all without telling Mia or Ethan beforehand, and without ever giving them the chance to be part of what should have been



10/29/2009

a "family" ceremony for them.

Given this history, isn't it clear to you where Mia's fears come from? Mia saw me dressed up on Friday night and came to her own conclusions about me and a date. Sadly, from your email to me, it appears that she is traumatized by her father's break up of her family and actions in introducing someone new into the home in record time, all directly contrary to what our family counselor told you and all manner of studies say is healthy for children of divorce.

These are the consequences of your infidelity and continuing poor judgment. Amy wasn't the first; she was just the last. Instead of falsely accusing me of wrongdoing, look at yourself in the mirror next time and continue with your psychiatric help. It is clear that you need it.

--Christina

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Monday, August 03, 2009 2:45 PM  
To: 'Christina Calderon-Stipp'  
Subject: RE: Violation of Stipulation and Order--No Telephone Call 8.1.09

You have my position on the issue. If the children want to speak to you, I will facilitate the call and dial your number. This will be my last email on this issue.

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Monday, August 03, 2009 3:06 PM  
To: 'Christina Calderon-Stipp'  
Subject: RE: Violation of Stipulation and Order--No Telephone Call 8.1.09

Your allegations are false. They are simply assumptions based on your insecurity and apparently never ending investigation into the "truth." What did your investigation find? Here is the truth: You asked for a divorce; we got one; I married somebody that I love; and You hate your lonely

10/29/2009

pathetic life. Your perception is warped. It is very clear from your email who is hurting the children. Mia is well adjusted to the changes in my life and loves Amy very much. She is not traumatized by my relationship with her. She appears only to be affected by your actions and feelings regarding Amy. Mia is very smart and communicates regularly your hatred and hostility toward Amy. I think a child assessment would demonstrate these facts (which is why you did not want it). I welcome it. I have nothing to hide. I am not the crazy one. You may have Pee Wee Herman (Shawn "Super" Gaystein) fooled, but no sane person believes that you are mentally stable. This is also my last email on this issue.

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Monday, August 03, 2009 3:49 PM  
To: Mitchell Stipp  
Subject: Re: Violation of Stipulation and Order--No Telephone Call 8.1.09

Mitchell,

You are a deeply insecure and intensely co-dependent pathetic little man. You always were, I just wanted to believe otherwise. Money will never make up for your insecurities. You can only feel good about yourself by putting down other people down, including my attorneys for some insane and unprovoked reason. You have always had a Napoleon/Willow complex and have always been the negative one about every little thing in your life even though you were truly blessed to have met and been with me for so long.

What you say about Mia is false. I have to deal with her questions on a daily basis, questions no 4-year-old should have to ask or wonder about like: Are you going to marry Dada again? Did you know he wears two rings, one for you and one for Amy? Amy says she's sorry about what she did. Why did Dada marry Amy? Why did Amy leave her husband? If Dada married you and then she chose Amy, who is next?

You only want an evaluation so that you can continue to mentally abuse Mia and Ethan. You want it so that you can try to rewrite history to anyone who will listen. This isn't 1984. No one believes your lies anymore.

10/29/2009

No one believes that you moved on with your secretary "after" our divorce, no matter how many times you say it, just as no one believes that she is with you for any reason other than your bank account.

My investigation revealed this: That my husband was unfaithful and spent what should have been family time chasing women he couldn't even pay to overlook his physical and mental inadequacies. You settled on an uneducated, trashy cheater just like yourself. The daughter of an alcoholic who traded in her devoted blue collar husband for her attorney boss. A man that courted her by splitting gum at her on his way past her office and giving her a Cartier watch and a \$7500 cash bonus for Christmas for her "services."

It is clear that you throw Amy at the children and vice versa because you fear that like you did to me, and she did to James, she will dump your ass as soon as the next best indecent proposal comes her way. Maybe you feel that having her next to you like velcro and ingratiated into the lives of our children will prevent her from leaving. Guess what? She will.

You bought Heather, the leasing coordinator who preceded Amy, a brand new BMW, but she dumped your ass anyway in favor of her felon live-in boyfriend (not to be confused with the estranged husband she had that you paid Paul Lemcke to get her divorced from). She wasn't even a U.S. citizen and had a criminal record. She and her boyfriend told me that you wouldn't stop calling her even after she let you go. You finally did when the felon threatened to kick your ass, which he should have done.

Then there was Pamela, your buddy Jon Field's sloppy seconds. She was a stripper at the Rhino who loved your relation\$\$\$hip until you probably maxed out your credit cards on her. But that didn't stop you from calling her 20 times a day for three months.

Then there were the Redstone grille/Sammy's/Kobe sushi/Starbucks waitresses who always seemed to go for your taller, charming and sexier boss over you. Can you blame them? I don't.

So what did you wind up with after I caught your pathetic phone call to Amy, your subordinate employee, complaining about why she didn't answer your weekend calls and asking whether she fucked her own husband or not after

10/29/2009

your tiff with her??? You got yourself the uneducated daughter of an alcoholic. Mexican trash from Texas looking to snag herself a rich man to put her through the prestigious University of Phoenix. This when you cry about not wanting to pay for your own children's preschool.

Looks like you're the real winner here. :-) You may not be "alone," but let me tell you something, you will always be lonely and so will she, because you are both terrible, empty people. Indecent home wreckers who deserve each other and the misery you will both bring to each other.

Trust me. I can buy myself a male Amy. They are a dime a dozen out here. I'm sure Amy considers marriage to you as just a promotion. At first she was "only" getting 80k a year (straight out of high school) to be your "secretary." The nominal sum you criticize Shawn for making. Now she gets half of your \$\$\$ in exchange for providing the same services. Can you blame her for jumping ship? Not in your sick world you can't.

It's funny how you say one thing in writing but another in person when she's not around, like how incredibly unhappy you are with her, how you regret your actions and misdeeds towards me and how you think about them every day of your life.

You should think about it. You lost the best thing, besides our children, that will ever happen to you. You never deserved me. No one thought so, it just took me a while to see it too. And as for having a "lonely, pathetic life," only you would say or wish such a thing. I have never been happier to be free from the torture of being around you. Divorce liberated me from what would have been a lifetime of pain and misery. Hallelujah!

Cheers to you guys and your future. To true soul mates.

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Saturday, August 08, 2009 2:53 PM  
To: 'Christina Calderon-Stipp'  
Subject:

Attached is itinerary. I will not have access to email but will have my phone.

**MOTION  
EXHIBIT “D”**

10/29/2009

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**From:** "Mitchell Stipp" <mitchell.stipp@yahoo.com>  
**To:** <mitchell.stipp@yahoo.com>  
**Sent:** 10/26/2009 3:51PM  
**Subject:** FW: Emails Re: Health and Education; (Final)

**From:** Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
**Sent:** Wednesday, October 21, 2009 12:33 PM  
**To:** 'mitchell.stipp@yahoo.com'  
**Subject:** FW: Emails Re: Health and Education (Final)

**From:** Mitchell Stipp <mitchell.stipp@yahoo.com>  
**To:** Christina Calderon-Stipp <ccstipp@gmail.com>  
**Sent:** Sun, July 12, 2009 5:37:51 PM  
**Subject:** RE: Weekend of 07.09.09

Mia had dinner; Ethan did not. Mia had a bath; Ethan did not. Ethan has a cold. I gave him Children's Zyrtec yesterday and today (max dosage for 24 hour period) and one dose of motrin this morning (temperature was 99.5). His main symptom is a runny nose. Ethan slept from 12:30pm to 2pm. Mia had Miralax Friday and Saturday. She had regular bowel movements each day (including today).

**From:** Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
**Sent:** Wednesday, October 21, 2009 12:14 PM  
**To:** mitchell.stipp@yahoo.com  
**Subject:** Emails Re: Health and Education

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

**From:** Christina Calderon-stipp [mailto:ccstipp@gmail.com]  
**Sent:** Wednesday, August 05, 2009 12:40 PM  
**To:** Mitchell Stipp  
**Subject:** Kids check ups

10/29/2009

I took klds to doctor today for their required physical exams for school. Everything went fine. MIA in 25% for height n weight. Ethan 50% for weight, 75% for height.

MIA needed 4 shots. Won't need anymore b4 kindegarten. Ethan needed 1.

I had to get quick appt to squeeze them in b4 u take them tomorrow.

Schools want immunizations by the 10th.

Sent from my iPhone

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Thursday, August 06, 2009 5:09 PM  
To: Mitchell Stipp  
Subject: Mia's Immunization Reaction and Constipation

Mitch,

Mia has a reaction to the Chicken Pox vaccine. It is a raised red swelling at the site of the injection. It itches her. The nurse (I called today) said to have her sit in tepid bathwater and/or administer cold compress to it (4x a day) to reduce swelling. She also said to give her Motrin. I gave her a dose of Motrin at 11am and a bath. I tried the cold compresses this afternoon, but she doesn't like them.

Also, Mia is suffering from constipation again. She had a BM on Monday, but none since. I have given her Miralax daily, along with fresh fruit and juices. I would have given her a suppository today, but she said that she would rather leave it for you to do tonight. She is actively holding in the poop. She is hiding when the urge hits her. Please give her a suppository tonight.

10/29/2009

I would like you to update me on the progress of Mia's health conditions while you have her.

Ethan seems to be ok with his shot, although I did give him Motrin last night.

Please acknowledge receipt of this email.

--Christina

---Original Message---

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Friday, August 07, 2009 9:22 AM  
To: 'Christina Calderon-stipp'  
Subject: RE: Kids check ups

Thank you for the update.

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Friday, August 07, 2009 9:22 AM  
To: 'Christina Calderon-Stipp'  
Subject: RE: Mia's Immunization Reaction and Constipation

I received it. Thank you for the information.

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Friday, August 07, 2009 6:07 PM  
To: Mitchell Stipp  
Subject: Re: Mia's Immunization Reaction and Constipation



10/29/2009

Mitch,

Did the swelling go down at the site of Mia's chicken pox immunization? Did she continue to itch it last night/today? Also, did she have a BM yet?

How is Ethan? He was terrified of Dan yesterday. It took some coaxing to get him into his car seat.

Thanks,

Christina

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Friday, August 07, 2009 8:06 PM  
To: 'Christina Calderon-Stipp'  
Subject: RE: Mia's Immunization Reaction and Constipation

Both children are doing fine.

From: Christina Calderon-stipp [mailto:ccstipp@gmail.com]  
Sent: Thursday, August 20, 2009 10:33 PM  
To: Mitchell Stipp  
Subject: Re: Labor Day Offer

Did Ethan have diarrhea with u? He has had it here three times and says his tummy hurts.

Sent from my iPhone

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Friday, August 21, 2009 6:52 AM  
To: 'Christina Calderon-stipp'  
Subject: RE: Labor Day Offer

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No.

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

From: Christina Calderon-stipp [mailto:ccstipp@gmail.com]

Sent: Monday, August 24, 2009 9:17 AM

To: Mitchell Stipp

Subject: Ethan's first day

Fyi.

He did great. No tears, but wanted his puppy n finger in mouth b4 we left. Good thing is that there were no crying babies like last year.

He got up right on time at 7 too. He'll be back on schedule for early nap and early bedtime as will MIA.

MIA doing well too. Misses her old teachers.

Sent from my iPhone

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

Sent: Friday, August 28, 2009 5:56 PM

To: Mitchell Stipp

Subject: Kids' Update

Mitch,

10/29/2009

Ethan bit Mia last night. She has a bruise on her back. He didn't break the skin. Watch out for his sudden attacks.

Both kids ate today around 4pm. Ethan has pooped twice today. Mia is struggling to poop. She didn't go yesterday, but has been regular prior to that. I give her Miralax daily, including today.

Be careful of too much sun if you take them outdoors this weekend. There's supposed to be a heat warning I heard. Sunscreen please.

Both kids had baths at 5.

--Christina

-----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.

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Does she still favor one dress while at your house? The rainbow one?

She only wants to wear two when with me.

Luc's mom is a psychiatrist and will be giving me a referral. I'll keep u posted.

-christina

Sent from my iPhone

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

From: Mitchell Stipp [mailto:mltcheil.stipp@yahoo.com]

Sent: Monday, August 31, 2009 6:27 PM

To: 'Christina Calderon-stipp'

Subject: RE: MIA

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 lled to her about the shoes and told her they were sent out to be cleaned

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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.

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Wednesday, September 02, 2009 10:06 AM  
To: Mitchell Stipp  
Subject: Sierra

Sierra Health is calling you. They need you to give me permission to release information regarding Mia since I'm not on your policy.

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Wednesday, September 02, 2009 10:30 AM  
To: Mitchell Stipp  
Subject: Re: MIA

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

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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.

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.

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, i.e., 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.

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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. Carl 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

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Wednesday, September 02, 2009 10:44 AM  
To: Mitchell Stipp  
Subject: Mia Psych

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Mitch,

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

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Wednesday, September 02, 2009 4:11 PM  
To: 'Christina Calderon-Stipp'  
Subject: RE: Mia Psych

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.

From: Christina Calderon-stipp [mailto:ccstipp@gmail.com]  
Sent: Friday, September 04, 2009 9:48 AM  
To: Mitchell Stipp  
Subject: Re: Mia Psych

310-8787. Google her on the Internet for additional contact and background



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info. Her name is melissa kalodner. I'm meeting her today on my own. She wants to meet the parents before she sees Mia. I told her to expect your call.

Sent from my iPhone

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Monday, September 07, 2009 6:57 PM  
To: Mitchell Stipp  
Subject: Health Update

Mitch,

I just got the kids from your sister at 6pm. Megan indicated that you gave Mia Zyrtec over the three-day weekend. When exactly did you first and last administer the medicine so that I know when it's safe to treat her apparent runny nose, sneezing and fever with appropriate medicine. Mia now has a 100 degree fever. Did you happen to give her anything for that? I want to give her Motrin right now, but I want to make sure you didn't already give her something for fever. Did you give Ethan any medicine this weekend? He sounds stuffy and is a little warm, but doesn't appear sick.

—Christina

From: Mitchell Stipp <mitchell.stipp@yahoo.com>  
To: Christina Calderon-Stipp <ccstipp@gmail.com>  
Sent: Mon, September 7, 2009 7:05:58 PM  
Subject: RE: Health Update

Ethan had a fever on Friday when we picked him up. He also had a runny nose on Saturday which we treated with zyrtec. Mia had no symptoms until last night. She had a runny nose. I gave her zyrtec last night and this morning. I gave her the maximum dosage for 24 hours each time. I was not aware that Mia had a fever.

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From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Thursday, September 10, 2009 2:12 PM  
To: Mitchell Stipp  
Subject: Mia's Psychologist

Mitch,

I spoke with Dr. Kalodner today. She left me a message yesterday telling me that you had apparently met with her and had made an appointment for Mia on Friday.

Prior to committing Mia to treatment with her, I wanted to share with you your thoughts on Dr. K after meeting with her and express my desire to meet with at least one other provider as I am not sure Dr. K would be the best fit for Mia.

I am also troubled by Dr. K's actions in committing to treat Mia at one price when she met with me, her self-proclaimed cash price, and then increasing it after meeting with you. It struck me as unprofessional and unwarranted.

—Christina

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Thursday, September 10, 2009 6:34 PM  
To: Mitchell Stipp  
Subject: Kids 09.10.09

Mitch,

I told Megan the following: both kids need dinner and baths. They both had BM's this afternoon. I didn't give Mia any laxative today.

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I say the following because it's your first time taking them to school this year. I'd advise an 8 or 9pm at the latest bedtime so they can get up in time for school tomorrow. They are usually up at 7am at my house.

I'm assuming you have your own uniforms for them. Remember that Ethan needs to wear Shabbat shirt on Fridays. Mia prefers the red polo and checkered jumper out of all of the options Dawson has for girls' uniforms. Just an FYI. Let me know if you want to know what sizes I got for them.

Try hard to get Mia to eat something healthy for breakfast in the morning. She doesn't get lunch at Dawson and is always hungry when I pick her up. I bring her lunch everyday which she eats in the car on the way to pick up Ethan. Usually PB&J.

On a side note, Mia will beg and plead not to have to go to school. Please don't give in to her because it will set a precedent.

Thanks,

Christina

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Friday, September 11, 2009 2:15 PM  
To: Mitchell Stipp  
Subject: Mia's Psychologist

Mitch,

If you have any referrals or recommendations for possible providers, please let me know. I'm going to investigate Diane Herbs, who I mentioned before, and a Dr. Hopper with the Hopper Institute, who was also referred to me.

10/29/2009

Thanks,

Christina

From: Christina Calderon-Stipp [mailto:ccstlpp@gmail.com]  
Sent: Friday, September 11, 2009 2:46 PM  
To: Mitchell Stipp  
Subject: 2009-2010 School Year & Beyond

Mitch,

Today was the first day of the school year that you took the kids to school. I thought this might be a good time to talk about what your thoughts are on their schools, their reactions to you about them, and to discuss future schooling.

As I told you previously, Mia is struggling in her adjustment with her new school, Dawson. I'm not sure how much of it is related to her issues with the new uniforms, but I am reserving judgment. I have noticed that Mia's new teachers are much more reserved than Ms. Gerst and Mr. West, as well as her previous teachers at TBS, so that may have to do with it as well. I have communicated to Ms. Klein, one of her teachers this year, my concerns about Mia, specifically, that she says that she doesn't like school, that it is "boring," that "she doesn't want to go to school." I will continue to work with the teachers on her transition, but I am sure it is just a matter of time. She's already bonded with a new friend who we used to play with at MyGym when they were both 2, Ava. Just to let you know ahead of time though, if Mia doesn't seem to be thriving at Dawson as she did at TBS, I don't want her to continue there.

Ethan, on the other hand, seems to be doing very well at TBS. His first two weeks were uneventful in terms of any negative reactions to school. This week was harder for him. Ms. Garvin said that he cried for me a lot on Tuesday and whined on Wednesday. By Thursday he was better. It might have to do with him being with you over the long weekend and then starting school right after. Today Ms. Halberg said that Ethan was his worst ever in terms of crying all morning, but I'm sure it's because he is not used to going to school when you have them. Overall, both Ethan and Mia love TBS and Ethan

seem to be doing well there.

Unfortunately, the kids can't continue at TBS beyond pre-k because they are not Jewish, so we have to think about other Kindergarten-high school options.

1) Public Schools. I am zoned for Givens Elementary. It has a good reputation. High parent involvement.

2) St. Elizabeth Ann Seton, K-8th grade with Gorman for high school. I would love for the kids to have a solid Catholic religious education and know, firsthand, that parochial schools provide a solid education for a comparatively reasonable cost, \$8k v. \$19k. Since you have now reneged on committing in writing to pay for the kids' school in the future and want to decide that on a year by year basis, it makes sense for me to consider affordable schooling options since it wouldn't make sense for the kids to start at a school like the Meadows, or continue at Dawson (whose tuition for Mia doubles next year), and have to go elsewhere if you decide not to help one year. They will have application packets available in October. Preference is given to parishioners. I am registered here and have been trying to establish a regular church attendance pattern for personal reasons, but also to help the kids' chances of going here. They also require individual assessments which occur in January.

3) Meadows. I know you expressed your preference for this school in the past. I'm not sure if you have toured the lower school or beginning schools, but I toured the beginning school and you know my thoughts on it for Mia. However, I am planning on touring the lower school, k-6th grade, and doing what I have to to keep this school open as an option for kindergarten next year. Kids have to pass a test to be considered for Kindergarten. They conduct these tests in January. They begin the required school touring now.

If Mia goes to Meadows next year, it would make sense to send Ethan there as well. I think that Ethan would do well at either Meadows or TBS. Again, cost of schooling and Mia's adjustment at Dawson will be a factor.

Just wanted you to know my thoughts on the very important subject of our children's present and future education. I welcome your input and

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Independent research.

Thanks,

Christina

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

From: Christina Calderon-stipp [mailto:ccstipp@gmail.com]

Sent: Monday, September 14, 2009 7:55 AM

To: Mitchell Stipp

Subject: Ethan

Mitch,

Ethan had diarrhea last night. He and MIA say that he threw up at  
your house this weekend.

Is this true? Did he exhibit any other signs of illness?

-christina

Sent from my iPhone

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

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]

Sent: Monday, September 14, 2009 10:45 AM

To: 'Christina Calderon-stipp'

Subject: RE: Ethan

Mia was constipated. Other than that, both children were fine this weekend.

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Neither threw up or exhibited any signs of illness.

Let me know if you took them to school or to the doctor (and if to the doctor, any illnesses diagnosed).

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Monday, September 14, 2009 1:10 PM  
To: Mitchell Stipp  
Subject: Re: Ethan

Ethan appeared fine this morning and continues in apparent good health. Both went to school. No doctor.

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Wednesday, September 16, 2009 9:50 AM  
To: Mitchell Stipp  
Subject: Mia Update

Mitch,

Mia is trying full day again today. She doesn't like the nap time, but seems to enjoy lunch with the class and afternoon activities that she's missing out on like library and music & movement. I love having her in only half day, but she's been expressing her desire to attend full day. What is your opinion on this? If she continues to want to make full day a permanent thing, will you be willing to share in the cost? I don't know how much extra it is, but I'll ask once she makes up her mind.

She continues to struggle with constipation. I believe that it may be related to her issues with sensory disorder. She holds it in to the point that she hardens what she has in there and thereby exacerbates the constipation. I told her teachers to watch for her struggling to hold it and to encourage her to use the potty today.

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I am setting up appointments with other referred psychologists, by myself, as I indicated to you earlier. They are Dr. Mishalow, Dr. Hopper, and Dr. Herbs. Will let you know how it goes. Let me know if you are willing to meet with them at the same time or not, otherwise I'll let you set up your own interviews/evaluations.

Thanks,

Christina

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]  
Sent: Wednesday, September 16, 2009 4:18 PM  
To: 'Christina Calderon-Stipp'  
Subject: RE: 2009-2010 School Year & Beyond

I received your email below. I am happy that Ethan is doing well at TBS. His recent emotional state probably has little to do with me having him an extra day over the weekend or taking him to school that Friday. Ethan was happy all weekend and I had no trouble dropping him off or picking him up at school.

As far as Mia, I am disappointed that her experience at Alexander Dawson is not as enjoyable. I have noticed that her teachers are reserved. I believe this is making the transition more difficult for Mia. Unfortunately, all teachers cannot be like Mia's teachers at TBS (although it is certainly worth complaining about). While I believe that it is entirely too early to conclude that she should not return, I think it is important to consider Mia's happiness and preferences (especially if her experience this year is not good).

With respect to schools for next year, I am not opposed to public school for Mia. Givens is a great elementary school, and I think Mia would do well there. However, I would like to keep her options open (so we should continue to investigate alternatives and complete necessary evaluations and applications).



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For the record, I have not reneged on paying for the children to attend private school. I have paid my share last year and this year. As you know, private school tuition is very expensive, and I am more concerned that you will not have the resources to continue to pay your share.

At this point, I am not very interested in the children attending any catholic school. However, I am not opposed to the idea of the children attending a religious school. I have been researching options for the children and would ask that you consider International Christian Academy. The cost is approximately \$6,000 per year per child. The children would receive a religious education. But more importantly, the school uses the "love and logic" approach to classroom management.

Given your past position on the Meadows, I think this option will not work for Mia and Ethan. We should, however, consider Las Vegas Day School which tends to be the alternative for parents who like the Meadows.

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]  
Sent: Thursday, September 17, 2009 11:17 AM  
To: Mitchell Stipp  
Subject: Re: 2009-2010 School Year & Beyond

Mitchell,

Thank you for responding to my email concerning the very important matter of our children's future education. Here are my thoughts as to your response.

1) Dawson. I think we should definitely, as I said before and you agreed below, reserve judgment on the school at this early stage in the school year. It's only been 3 weeks since school started. Thankfully, Mia has begun to show signs of truly bonding with her new classmates and teachers. While she misses her old school, she seems to be more accepting of the change of schools. Today will be the third day in a row that she has elected to stay for the entire day. I am not pushing it at all, but rather, am letting her decide when she is ready to take this enormous step. As I

told you in a separate email yesterday, she enjoys being with her class for lunch and afternoon activities and expresses reluctance to leave at half day. Ms. Hall, the head of the ECEC, told me upon enrollment that most half-day kids (and apparently there are not many) transition to full day by Thanksgiving.

2) TBS. What an amazing school this has been for the kids. As you saw yesterday, Ms. Garvin and Ms. Helberg are outstanding teachers, who genuinely seem to care for our kids and love teaching. The school has a great community feel to it as well. My observations about Ethan's behavior on Friday come first-hand from his teachers. Ms. Garvin speculates that his recent crying in the mornings has to do with the new transitioning of Dad bringing him to school. He has progressively improved since Friday and, in fact, transitioned easily into the classroom from me this morning. No tears. No needing to be held by Ms. Helberg. Like Mia, he is adjusting to change as well. I did not intend for you to take this observation as an insult. I am sure he did well over the weekend with you.

3) Public School. Another option for public school, in addition to Givens, would be Goolsby. You are zoned for it and, I believe it is a good school too.

4) Catholic School. I'm curious, what is the basis for your opposition to Catholic school? I would respectfully ask that you reconsider and please undertake the effort to investigate St. Elizabeth Ann Seton before ruling it out. We were both baptized, celebrated communion, were confirmed, and married in the Catholic church. We baptized both of our children there as well. Is it the faith you have an issue with? Please take a tour, talk to parents, read reviews. I just ask that you give it a chance. It's how I found out first-hand how great a school TBS would be. There's nothing better than seeing a school in person, talking to teachers and administrators, and getting an overall feel for it.

4) Meadows. I never toured the Lower School. Have you? I reserve judgment on this school until I've had an opportunity to do so. We shouldn't rule it out completely given it's incredible reputation for being one of the best college prep schools in the city.

6) Thank you for referring me to LVDS and the International Christian Academy. I will look into both. I've never heard of ICA. I'll check it out in person. What I read on-line about ICA, however, gives me some

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reservations about the school. I paste below some negative reviews of the school posted by parents on the Internet. I also question the conservative Christian Protestant-fundamentalist base of the school. Did you know they preach the philosophy of Bob Jones? How did you hear of the school? Do you or someone you know attend church at the congregation affiliated with this school? or do you know of a family with children at this school? As for