

EXHIBIT F

1 CC03
 2 **DONN W. PROKOPIUS, CHTD.**
 3 **DONN W. PROKOPIUS, ESQ.**
 4 Nevada State Bar No. 006460
 5 931 South 3rd Street
 6 Las Vegas, Nevada 89101
 7 (702) 474-0500 Fax (702) 951-8022
 8 donnprokopius@yahoo.com
 9 Attorney for Plaintiff CHRISTINA STIPP

7
 8 **DISTRICT COURT, FAMILY DIVISION**
 9 **CLARK COUNTY, NEVADA**

10 CHRISTINA STIPP,)	CASE NO. D-08-389203-Z
11)	DEPT. NO. O
12 Plaintiff,)	
13 v.)	
14 MITCHELL STIPP,)	
15)	DEPOSITION SUBPOENA
16 Defendant.)	<u> </u> REGULAR <u> X </u> DUCES TECUM

17 **THE STATE OF NEVADA SENDS GREETINGS TO:**

18 **Dr. Melissa Kalodner**
 19 **2904 West Horizon Ridge Parkway**
 20 **Las Vegas, Nevada 89052**

21
 22 **YOU ARE HEREBY COMMANDED**, that all and singular, business and excuses set
 23 aside, you appear on the 22nd day of February, 2010, at 10:00 a.m., at the law offices of DONN
 24 W. PROKOPIUS, ESQ., attorney for the Plaintiff, CHRISTINA STIPP, at: 931 South 3rd Street,
 25 Las Vegas, Nevada, 89101. Your attendance is required to give testimony and/or produce and
 26 permit inspection and copying of designated books, documents or tangible things in your
 27

possession, custody or control. You are required to bring with you at the time of your appearance any items set forth below.

If you fail to attend, you may be deemed guilty of contempt of Court and liable to pay all losses or damages caused by your failure to appear. Please see "Exhibit A" attached hereto for information regarding the rights of the person subject to this Subpoena.

DATED this 5 day of February, 2010.

By: [Signature]
 DONN W. PROKOPIUS, ESQ.
 Nevada Bar No: 6460
 931 South 3rd Street
 Las Vegas, Nevada 89101
 (702) 474-0500
 Attorney for Plaintiff

AFFIDAVIT OF SERVICE

STATE OF NEVADA)
) ss:
 COUNTY OF)

, being duly sworn says: That at all times herein affiant was over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. That affiant received the Subpoena on the _____ day of February, 2010, and served the same on the _____ day of _____, 2010, by delivering a copy to the witness at (state address)

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this _____ day of February, 2010.

 Signature of person making service

ITEMS TO BE PRODUCED

1) Copies of any and all documents, stored in any format whatsoever, electronic or otherwise, relating to Mia Elena Stipp and/or Mitchell David Stipp from August 2009 to the present.

2) Copies of any and all hand-written notes relating to Dr. Melissa Kalodner's treatment of Mia Elena Stipp from August 2009 to the present.

3) Copies of any and all intake documents/forms relating to Mia Elena Stipp from August 2009 to the present.

4) Copies of any and all documents relating to consent and/or lack of consent to treat Mia Elena Stipp from August 2009 to the present.

5) Copies of any and all documents relating to Dr. Melissa Kalodner's office policies/procedures pertaining to her treatment of Mia Elena Stipp from August 2009 to the present.

6) Copies of any and all documents requested by and/or produced to Mitchell David Stipp in response to any and all request(s)/demand(s)/subpoena(s) made by, or on behalf of, Mitchell David Stipp to Dr. Melissa Kalodner.

7) Copies of any and all documents relating to written communication(s), including but not limited to correspondence, emails, and/or text messages, by and between Mitchell David Stipp and Dr. Melissa Kalodner from August 2009 to the present.

8) Copies of any and all documents relating to telephonic communication(s) between Mitchell David Stipp and Dr. Melissa Kalodner from August 2009 to the present.

9) Copies of any and all documents relating to Dr. Melissa Kalodner's billing and/or accounting records for services rendered to Mia Elena Stipp and/or Mitchell David Stipp from August 2009 to the present.

10) Copies of any and all communications, electronic or otherwise, between Mitchell David Stipp, and/or anyone on his behalf, and any representative of Dr. Melissa Kalodner, including, but not limited to, Anthony Barney.

11) Copy of Dr. Melissa Kalodner's most recently updated curriculum vitae.

CERTIFICATE OF MAILING

I hereby certify that I am an employee of DONN W. PROKOPIUS, CHTD. and on the 5th day of February, 2010, I duly deposited for mailing in the U.S. Mail at Las Vegas, Nevada, postage prepaid thereon, and transmitted a "courtesy copy" via facsimile to 990-6456 and 259-1116, a true and correct copy of the above and foregoing SUBPOENA DUCES TECUM OF DR. MELISSA KALODNER addressed to the following at their last known address:


Radford Smith, Esq.
64 North Pecos Road Suite #700
Henderson, Nevada 89074
Attorney for Defendant

Anthony Barney, Esq.
3317 W. Charleston Blvd., #B
Las Vegas, Nevada 89102
Attorney for Dr. Melissa Kalodner

MELISSA WEINBERG, an employee of
DONN W. PROKOPIUS, CHTD.

1 Oral examination will continue from day to day until completed and shall be recorded by
2 sound, and/or sound-and-visual, and/or stenographic means. You are invited to attend and cross-
3 examine.
4

5 Dated this 5 day of February, 2010.
6

7
8 
9 DONN W. PROKOPIUS, ESQ.
10 Nevada Bar No: 6460
11 931 South 3rd Street
12 Las Vegas, Nevada 89101
13 (702) 474-0500
14 Attorney for Plaintiff

15 **CERTIFICATE OF MAILING**

16 I hereby certify that I am an employee of DONN W. PROKOPIUS, CHTD. and on the 5th
17 day of February, 2010, I duly deposited for mailing in the U.S. Mail at Las Vegas, Nevada,
18 postage prepaid thereon, and transmitted a "courtesy copy" via facsimile to 990-6456 and 259-
19 1116, a true and correct copy of the above and foregoing NOTICE OF DEPOSITION OF DR.
20 MELISSA KALODNER addressed to the following at their last known address:

21 Radford Smith, Esq.
22 64 North Pecos Road Suite #700
23 Henderson, Nevada 89074
24 Attorney for Defendant

25 Anthony Barney, Esq.
26 3317 W. Charleston Blvd., #B
27 Las Vegas, Nevada 89102
28 Attorney for Dr. Melissa Kalodner

29 
30 MELISSA WEINBERG, an employee of
31 DONN W. PROKOPIUS, CHTD.

EXHIBIT G

Anthony L. Barney, M.S., J.D., LL.M.
Attorney at Law
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.
Attorney at Law
Licensed in Nevada

ANTHONY L. BARNEY, LTD.
A Nevada Professional Law
Corporation

3317 W. Charleston Boulevard, Suite B
Las Vegas, Nevada 89102-1835
Receptionist: 702-438-7878
Fax: 702-259-1116

Neva Liche
Administrative Assistant

Mark Rushforth
Administrative Assistant

Website Address
<http://www.anthonymbarney.com>

E-mail Address
office@anthonymbarney.com

February 25, 2010

Donn W. Prokopius, Esq.
931 South 3rd Street
Las Vegas, Nevada 89101

RE: Stipp v. Stipp: Case No. D08-389203-Z

Dear Mr. Prokopius,

I am in receipt of your letter dated February 22, 2010. I have spoken with my client, and she has indicated that all records in this matter have been provided to your office.

I became concerned by your representations in your last letter concerning the laryngitis suffered by Dr. Melissa Kalodner ("Dr. Kalodner"). As a courtesy to you, Dr. Kalodner provided a letter from her physician concerning her condition.

Your statement that "client was not as ill as she claimed on January 19, 2010" is odd to say the least. My letter to you indicated that Dr. Kalodner's was ill with "laryngitis." *See Letter from Anthony L. Barney, Esq. to Donn W. Prokopius, Esq. dated February 19, 2010 with attachments as Enclosure 1.* Your insinuation concerning this matter was that more was "claimed" concerning Dr. Kalodner's medical condition. This simply is not true. I then realized that maybe you are not familiar with the medical condition of laryngitis. In an effort to avoid further confusion concerning this condition, please note that laryngitis is an illness caused by an inflammation of the mucous membrane of the larynx; characterized by loss of voice and coughing.

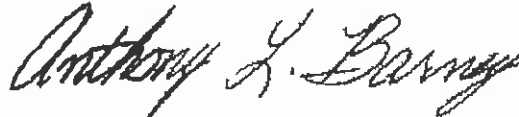
You excused her appearance at the deposition based upon her laryngitis. If you were not aware of this medical condition, you had the opportunity to clarify your misunderstanding before you granted her excusal from the deposition. *See Letter from Donn W. Prokopius, Esq. to Anthony L. Barney, Esq. dated February 19, 2010 (Misdated as February 18, 2010) as Enclosure 2.* Furthermore, you indicated that she was given the option of having our office provide the requested records in this matter. Our office complied with this request, and provided the requested documents to your office. *See Receipt of Copy as Enclosure 3.*

*Correspondence to Donn W. Prokopius, Esq.
2/25/2010
Page 2 of 2*

I have grave concerns regarding either your or your client's efforts to follow and/or intentionally observing the movements of Dr. Kalodner at a conference that you have alleged she attended. See *Letter from Donn W. Prokopius, Esq. to Anthony L. Barney, Esq. dated February 22, 2010 as Enclosure 4*. Please provide our office with the source of your allegations in this regard to enable my client to determine if she should take further measures to prevent any similar conduct from you and/or your client. Your or your client's conduct in this regard appear highly suspect in light of your unwarranted threats to pursue contempt sanctions against Dr. Kalodner.

Thank you for your prompt response to this matter. If you have any questions concerning this matter, please do not hesitate to contact our office.

Sincerely,



ANTHONY L. BARNEY
Attorney at Law
anthony@anthonybarney.com

Enclosures: 1-4

cc: Client

Radford J. Smith, Esq. via fax at (702) 990-6465

ENCLOSURE 1

Anthony L. Barney, M.S., J.D., LL.M.
Attorney at Law
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.
Attorney at Law
Licensed in Nevada

ANTHONY L. BARNEY, LTD.
A Nevada Professional Law
Corporation

3317 W. Charleston Boulevard, Suite B
Las Vegas, Nevada 89102-1835
Receptionist: 702-438-7878
Fax: 702-259-1116

Nora Licht
Administrative Assistant

Mark Bueforth
Administrative Assistant

Website Address
<http://www.anthonymbarney.com>

E-mail Address
office@anthonymbarney.com

February 19, 2010

Donn W. Prokopius, Esq.
931 So. Third Street
Las Vegas, Nevada 89101

VIA FACSIMILE AND US MAIL

Re: Deposition of Melissa Kalodner

Dear Mr. Prokopius,

I am writing to you concerning the deposition of Dr. Melissa Kalodner originally scheduled for February 22, 2010 at 10:00 a.m. I was copied on correspondence between you and Radford Smith indicating that this deposition has been cancelled based upon the direction of the court in this matter. *See attached Letter from Radford J. Smith, Esq. to Donn Prokopius, Esq. dated February 17, 2010.*

If I am mistaken in my understanding, please consider this my request to reschedule the deposition for another date in the near future. Dr. Melissa Kalodner has been ill and is currently suffering from laryngitis at this time. Her treating physician has indicated that, due to her condition, she will not be able to attend a deposition on Monday, February 22, 2010. *See attached Letter from Steven P. Winkler, M.D. dated February 18, 2010.*

It is my understanding that you are already now in possession of those documents which were subpoenaed. If I am mistaken in my understanding, please consider this a request to provide me with a list of documents requested, but not received. It is my understanding that your client has agreed to pay the hourly rate of Dr. Melissa Kalodner for any and all depositions and related preparation in this matter in the amount of \$300/hr.

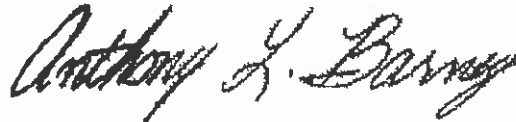
Correspondence to Donn Prokopius

2/19/2010

Page 2 of 2

If you have any questions concerning this matter, please do not hesitate to contact our office. Thank you for your prompt attention to this matter.

Sincerely,



ANTHONY L. BARNEY

Attorney at Law

anthony@anthonybarney.com

cc: Client

Enclosures: Letter from Radford J. Smith, Esq. to Donn Prokopius, Esq. dated February 17, 2010; Letter from Steven P. Winkler, M.D. dated February 18, 2010.

From: Radford J. Smith, Chartered

7029908458

02/17/2010 18:50

#168 P.002/002

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, Esq.
RSMITH@RADFORDSMITH.COM

A Professional Corporation
64 NORTH PECOS ROAD, SUITE 700
HENDERSON, NEVADA 89074

TELEPHONE: (702) 990-6448
FACSIMILE: (702) 990-6400

February 17, 2010

VIA FACSIMILE
Donn Prokopius, Esq.

Re: *Stipp v. Stipp*

Dear Donn:

This will confirm our agreement of Friday, February 16, 2010 under which you agreed to vacate the deposition of Dr. Kolodner currently set for February 22, 2010. As we agreed, Judge Sullivan's most recent order permitted only the deposition of Dr. Mishalow, and for a limited purpose. The court has indicated that it will address the need for further discovery after reviewing the report of Dr. Paglini. If your understanding is any different, please let me know immediately.

I am faxing a copy of this letter to Anthony Barney, Esq., counsel for Dr. Kolodner as a courtesy so he is aware that the deposition is cancelled. I trust you will provide him with formal notice.

Please call with questions.

Sincerely,

RADFORD J. SMITH, CHARTERED


Radford J. Smith, Esq.

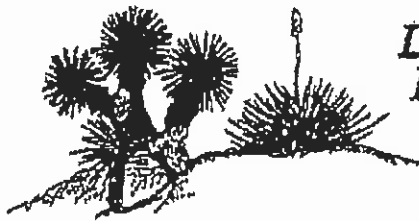
RJS:

cc: Mich Stipp (via email)

02-18-10;05:50PM;

;702 310 8788

1/ 1



Desert Preventative & Diagnostic Medicine

February 18, 2010

RE: Dr. Melissa Kalodner

To Whom It May Concern:

I am writing this letter on behalf of my patient Dr. Melissa Kalodner. Dr. Kalodner has laryngitis and will not be able to attend the deposition scheduled on Monday February 22, 2010.

If you have any questions, please feel free to contact me at 702-617-8684.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Winkler".

Steven P. Winkler, M.D., F.A.C.P.

02/19/2010 09:50 FAX 7022591116

ANTHONY L. BARNEY, LTD.

001

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	0410
RECIPIENT ADDRESS	B518022
DESTINATION ID	
ST. TIME	02/19 09:49
TIME USE	00'43
PAGES SENT	5
RESULT	OK

Anthony L. Barney, M.S., J.D., LL.M.
Attorney at Law
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.
Attorney at Law
Licensed in Nevada

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Website Address
<http://www.anthonybarney.com>

E-mail Address
ahbarney@anthonybarney.com

FACSIMILE TRANSMITTAL SHEET

FROM: Mark Rushforth
Administrative Assistant
TO: Donn W. Prokopius, Esq.

DATE: February 19, 2010

FAX NUMBER: 702-951-8022

TOTAL NUMBER NO. OF
PAGES
(INCLUDING COVER):
5

SENT VIA FAX ONLY, EXCEPT AS CHECKED BELOW:

MAIL: ☐-COPY; ☒-ORIGINALRUNNER: ☐-COPY; ☐-ORIGINALFEDEX: ☐-COPY; ☐-ORIGINALE-MAIL: ☐-COPY; ☐-ORIGINAL

SENDER'S FAX NUMBER:
702-259-1116

SENDER'S PHONE NUMBER:
702-438-7878

SENDER'S E-MAIL:
mark@anthonybarney.com

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL AND MAY BE COVERED BY THE ATTORNEY-CLIENT PRIVILEGE AND/OR OTHER APPLICABLE PRIVILEGES. THIS IS INTENDED FOR THE DESIGNATED RECIPIENT ONLY, AND ANY DISSEMINATION, DISTRIBUTION, OR COPY OF THIS COMMUNICATION TO ANYONE ELSE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE OR BY FAX AND DESTROY EVERY PAGE OF THIS TRANSMISSION. THANK YOU.

ACCOMPANYING DOCUMENTS:

Correspondence from Anthony L. Barney, Esq.

R.App.pg.117

ENCLOSURE 2

COPY

**LAW OFFICES OF
DONN W. PROKOPIUS, CHTD.**

DONN W. PROKOPIUS, ESQ.

931 South 3rd Street
Las Vegas, Nevada 89101

Office: (702) 474-0500

Fax: (702) 951-8022

February 18, 2010

VIA FAX NO. 259-1116 & U.S. MAILAnthony L. Barney
3317 W. Charleston Blvd., Suite B
Las Vegas, Nevada 89102-1835**RE: Stipp v. Stipp: Case No. D08-389203-Z**

Dear Mr. Barney:

I am in receipt of your letter dated February 19, 2010. I am sorry that your client is apparently ill. It would seem that while your client may not be able to provide oral testimony due to laryngitis, she can still appear and produce the outstanding documents that she has yet to produce or, in the alternative, you can provide those to me in advance of Monday's deposition.

I understand that you were copied on correspondence from Radford Smith to me on this matter, dated February 17, 2010, however, please be advised that as I indicated in the letter I copied to you, yesterday, Dr. Kalodner's deposition has not been vacated due to her failure to comply with the document production I requested of her via my subpoena to her. Per your request, I have indicated next to each of the 11 document requests set forth in the "Items to be Produced" section of her subpoena, which I attach hereto for your convenience, which requests have yet to be complied with (10 of the 11 requests are outstanding).

In addition to the subpoena I faxed to you as a courtesy on February 5, 2010, and subsequently served on your client, my client wrote to Dr. Kalodner, and I also wrote to you in January 2010 requesting much of the information contained in her subpoena. Neither my client nor I received any response. I do not understand your client's refusal to produce such pertinent documents. Due to other deadlines in this matter that are beyond my control, I am unable to waive your client's document production compliance with her subpoena.

Sincerely,



Donn W. Prokopius, Esq.

Enclosure

ENCLOSURE 3

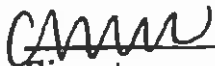
RECEIPT OF COPY

The undersigned on behalf of Donn W. Prokopius, Esq. received the following documents:

1. Curriculum Vitae of Dr. Melissa Kalodner,
2. HIPAA Authorization from Dr. Melissa Kalodner to Mitchell Stipp signed and dated 1-14-2010,
3. Consent for Treatment from Dr. Melissa Kalodner to Mitchell Stipp signed and dated 9-9-2009, Consent For Treatment dated 9-9-2009,
4. Dr. Kalodner's Office Policies to Christina Stipp signed and dated 9-4-09,
5. Dr. Kalodner's Fee Policy to Christina Stipp signed and dated 9-4-09,
6. Letter to Dr. Melissa Kalodner from Christina Stipp dated 12-15-2009,
7. Fax Letter to Dr. Melissa Kalodner from Christina Stipp dated December 31, 2009,
8. Letter to Christina Stipp from Dr. Melissa Kalodnder dated January 12, 2010,

9. Psychotherapy Notes Authorization from Mitchell Stipp to Dr. Melissa Kalodner signed 1-14-2010,
10. HIPAA Authorization from Dr. Melissa Kalodner to Mitchell Stipp dated 1-14-2010,
11. Psychotherapy Notes Authorization from Mitchell Stipp to Dr. Melissa Kalodner signed and dated 1-14-2010,
12. Psychotherapy Notes Authorization from Amy Stipp to Dr. Melissa Kalodner signed and dated 1-14-2010,
13. Psychotherapy Notes Authorization from Amy Stipp dated 1-14-2010,
14. Letter from Mitchell Stipp to Dr. Melissa Kalodner dated January 13, 2010,
15. Letter from Christina Stipp to Dr. Melissa Kalodner dated January 8, 2010,
16. HIPAA Authorization from Dr. Melissa Kalodner to Christina Stipp,
17. Letter from Mitchell Stipp to Anthony Barney and Dr. Melissa Kalodner dated January 14, 2010

on February 22, 2010 at 9:53 a.m. with the accompanying
letter from Anthony L. Barney, Esq. to Donn W. Prokopius, Esq. dated
February 22, 2010.


Signature

MELISSA Weinberg
Print Name

ENCLOSURE 4

FEB/22/2010/MON 02:25 PM

P. 001/001

**LAW OFFICES OF
DONN W. PROKOPIUS, CHTD.**

DONN W. PROKOPIUS, ESQ.

931 South 3rd Street

Las Vegas, Nevada 89101

Office: (702) 474-0500

Fax: (702) 951-8022

February 22, 2010

VIA FAX NO. 259-1116 & U.S. MAIL

Anthony L. Barney

3317 W. Charleston Blvd., Suite B

Las Vegas, Nevada 89102-1835

RE: Stipp v. Stipp; Case No. D08-389203-Z

Dear Mr. Barney:

I am in receipt of your letter dated February 22, 2010, which included additional records from your client, Dr. Kalodner. Unfortunately, it appears that the production is missing critical documents that were requested in my subpoena to her, but not produced, including, but not limited to: all hand-written notes, emails, and billing records reflecting what Dr. Kalodner received from Mitch Stipp for her services.

It is my understanding that your client was not as ill as she claimed on January 19, 2010. She apparently attended a conference on January 19, 2010, and was able to work on January 20, 2010. Her appearance this morning for deposition, therefore, was not excused, as it appears that she could have provided required testimony. As you are aware, my offer to postpone her deposition was conditioned upon her production of *all* of the documents requested in the Subpoena I served on her last week, which, to date, has not occurred.

Please be advised that if your client does not produce these requested documents immediately, I will have no other recourse than to pursue contempt sanctions against her.

Sincerely,



Donn W. Prokopius, Esq.

EXHIBIT H

SYMPTOMS CHECKLIST

1/Noether

Please indicate with a ✓ mark areas of past or present difficulty

LANGUAGE AND AUDITORY SKILLS

1. _____ a history of ear infections
2. _____ difficulty rhyming words
3. _____ mixes words
4. _____ difficulty learning a foreign language
5. _____ word retrieval problems
6. _____ difficulty expressing self
7. _____ cannot answer questions quickly
8. _____ confuses similar-sounding words
9. _____ difficulty following a series of directions
10. _____ developed speech late
11. _____ makes very brief statements
12. _____ has trouble understanding words with multiple meanings
13. _____ difficulty understanding figurative language (e.g. puns, idioms, jokes, riddles, slang)
14. _____ has problems sequencing thoughts
15. _____ is extremely forgetful
16. _____ has poor use and understanding of rules of grammar
17. _____ memorizes poorly
18. _____ needs to watch the speaker to hear better
19. _____ does not often listen to instruction
20. _____ must often have verbal directions repeated
21. _____ does not learn well by listening
22. _____ cannot always relate what is heard to what is seen
23. _____ limited vocabulary
24. _____ tends to agree rather than present opposition
25. _____ asks indirect and vague questions
26. _____ withdraws from group activities
27. _____ is excluded from group activities
28. _____ has trouble understanding 'body language'
29. _____ fails to understand rules of conversation (e.g. taking turns; introducing topic)
30. _____ cannot attend to auditory stimuli for more than a few seconds
31. _____ frequently misunderstands what is said
32. _____ quickly forgets what is said
33. _____ may talk a lot, but not answer question
34. _____ bothered by background noise
35. _____ has problems with sound discrimination
36. _____ has "startle" response to sudden sound or movement
37. _____ notices sounds before others do
38. _____ gives unusual descriptions of sounds or sensation
39. _____ constantly hums or talks to self
40. _____ needs frequent "quiet time" to regain mental energy and composure

ACADEMIC SKILLS

41. _____ confuses short vowel sounds (e.g. especially e, i)
42. _____ has poor memory for letter and vowel combination sounds
43. _____ fails to read word endings (e.g. 's', 'ed')
44. _____ ignores punctuation when reading
45. _____ tries to sound out words, but cannot blend parts into meaningful whole
46. _____ has a limited sight-word vocabulary
47. _____ reads slowly, with hesitation
48. _____ loses place easily
49. _____ fails to start with the first letter sound in decoding words
50. _____ repeatedly inserts the /r/ and/or /l/ sounds in words
51. _____ fails to recognize the word even after it has been sounded out correctly
52. _____ low interest in reading
53. _____ guesses words from minimal cues (e.g. first letter, length/shape of word like 'task')
54. _____ substitutes word of similar meaning (e.g. as 'house' for 'home')
55. _____ adds, omits, reverses or substitutes letters in reading words
56. _____ omits syllables (e.g. 'remember' = 'number')
57. _____ poor comprehension of what is read
58. _____ writes letters in wrong order (e.g. "lin" = "li")
59. _____ reverses letters (e.g. 'b' = 'd', 'p' = 'q')
60. _____ inverts letters (e.g. writes 'n' as 'u', 'm' as 'w')
61. _____ spells words as they sound (e.g. 'sac' = 'said'; 'tach' = 'touch'; 'cream' = 'creom')
62. _____ may use bizarre spellings (e.g. letters show little correspondence to sounds)
63. _____ reverses syllables (e.g. 'caldaren' = 'calendar')
64. _____ trouble counting in order (e.g. by 2's, 5's, etc.)
65. _____ has rote memory difficulties for math facts
66. _____ uses concrete objects for addition and subtraction (e.g. fingers, touch dots, beads, etc.)
67. _____ multiplies by adding ($8 \times 3 = 8 + 8 + 8 = 24$)
68. _____ multiplies by grouping ($7 \times 8 = 5 \times 8 + 2 \times 8 = 40 + 16 = 56$)
69. _____ confuses math operation signs
70. _____ miscopies numbers
71. _____ has difficulty with temporal concepts (e.g. before and after, sooner or later, etc.)
72. _____ has difficulties with word problems
73. _____ forgets sequence of numerical operations (e.g. adding/multiplying/dividing by 2 or more digits)
74. ☒ is left-handed
75. ☒ uses both hands to do things
76. _____ has a problem telling left from right
77. _____ has an awkward pencil grip
78. _____ positions body at an odd angle when writing
79. _____ erases frequently
80. _____ writes too darkly
81. _____ presses down too heavily on pencil
82. _____ writes too lightly
83. leaves space between words that is: too wide _____ too narrow _____ nonexistent _____
84. _____ needs an excessive amount of time to complete written work
85. _____ omits details (e.g. crossing t's, dotting i's, word endings, punctuation)
86. _____ mixes upper and lower case letters (e.g. Cat, doG, and, bOy)
87. writes letters and words that are inconsistent in: slant _____ size _____ shape _____ line placement _____
88. _____ cannot write using cursive style
89. _____ prefers to use manuscript style only
90. _____ has a problem organizing material and writing reports

BEHAVIORAL OBSERVATIONS

91. _____ has trouble paying attention
92. _____ is distractible
93. _____ tends to be overactive
94. _____ tends to be underactive
95. _____ is frequently forgetful
96. _____ is disorganized
97. _____ is impulsive (e.g. acts or speaks without thinking of consequences)
98. _____ has difficulty concentrating
99. is extremely sensitive to criticism objection frustration
100. ☒ _____ angers quickly
101. _____ is often anxious
102. _____ is frequently moody
103. _____ worries too much
104. _____ frequently complains of headaches
105. _____ frequently complains of stomachaches
106. _____ is easily startled
107. _____ has problems sleeping
108. _____ is soothed by sounds (e.g. TV, fan, radio, etc.)
109. often: pulls _____ twists _____ twirls _____ hair lashes brows other _____
110. is preoccupied with: smells:(which?) _____ tastes:(which?) _____ objects:(which?) _____
111. ☒ _____ is sensitive to the feeling of certain clothes and fabrics
112. _____ repeats motions or gestures
113. _____ makes strange, inappropriate noises
114. _____ blinks eyes excessively
115. _____ twitches nose excessively
116. exhibits jerking motions of: neck arms legs shoulders _____
117. _____ licks lips excessively
118. is preoccupied with: checking counting _____ picking up other _____
119. _____ is extremely concerned with cleanliness and washing

While this checklist is not a standardized assessment, it can be used for screening purposes. If a significant number of questions are answered 'yes', it would suggest the presence of learning and/or related disorder(s) warranting the administration of a comprehensive diagnostic evaluation.

Please use this space for any additional observations or to note other areas of concern:

by Harold F. Burks, PhD

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1. Is overobedient.	1
2. Withdraws quickly from group activities, prefers to play by self	1
3. Questions indicate a worry about the future	2
4. Blushes easily.	1
5. Is difficult to get to know	1
6. Is easily led.	1
7. Disinterested in play activity of others	1
8. Upset if makes a mistake.	2
9. Wants others to do things for him	3
10. Shows many fears.	1
11. Shows little feeling when others are upset	1
12. Shows excessive guilt for wrong doing	1
13. Worries too much.	1
14. Does not show feelings	1
15. Is upset if things do not turn out perfect	2
16. Clings to adults	1
17. Appears tense	3
18. Is shy.	1
19. Blames himself if things go wrong	1
20. Seeks constant praise	1
21. Appears nervous.	1
22. Is dependent on others to lead him around	1

R.App.pg.130

Please rate each and every item by putting the number of the most appropriate descriptive statement in the box opposite each item. The 5 descriptive statements are given below:
 Number 1. You have not noticed this behavior at all
 Number 2. You have noticed the behavior to a slight degree
 Number 3. You have noticed the behavior to a considerable degree
 Number 4. You have noticed the behavior to a large degree
 Number 5. You have noticed the behavior to a very large degree

23. Follows directions poorly					1
24. Cannot finish what he is doing; jumps to something else					1
25. Avoids physical contact in play				1	
26. Thinks little of his own abilities	1				
27. Has trouble holding on to things			1		
28. Attention span is short					1
29. Has trouble remembering things					1
30. Is easily satisfied with poor performance		1			
31. Is easily distracted, lacks continuity of effort and perseverance					1
32. Shows poor coordination in large muscle activities				1	
33. Gets hurt in physical play			1		
34. Does not show imagination					1
35. Attention span not increased by punishment or reward					1
36. Is easily frustrated and gives up passively	1				
37. Spills milk and drops food				1	
38. Acts silly		3			
39. Gives inappropriate responses					1
40. Appears physically lethargic			1		
41. Cannot shift responses to meet problem situations					1
42. Avoids competition		1			
43. Drawings and paintings are messy				1	
44. Will not rough and tumble with others			1		
45. Does not ask questions					1
46. Plays the clown of the class		2			
47. Accidentally runs into people and objects				1	
48. Shows limited vocabulary					1
49. Shows little self-confidence	1				
50. Gets tired quickly			1		
51. Shows erratic, flighty or scattered behavior					1
	5	6	7	8	9

77. Is truant ...
78. Maintains other children pick on him
79. Teases others ...
80. Will not take suggestions from others
81. Becomes angry quickly ...
82. Complains he never gets his fair share of things
83. Is involved in undesirable escapades ...
84. Laughs when other are in trouble
85. Becomes angry if asked to do something
86. Will not forgive others (buckle principle)
87. Does things his own way ...
88. Hits or pushes others ...
89. Shows little respect for authority
90. Denies responsibility for own actions ...
91. Flares up at children if teased or pushed
92. Takes things which do not belong to him
93. Accuses others of things they actually did not do
94. Displays a don't care attitude, does what he wants
95. Makes fun of others. ...
96. Is stubborn and uncooperative
97. Does not follow through on responsibilities
98. Explodes under stress ...
99. Wants to boss others ...
100. Tells falsehoods ...
101. Is quickly frustrated and loses emotional control
102. Is rebellious if disciplined ...
103. Complains others do not like him
104. Plays tricks on other children
105. Is lardy... ..

	14	15	16	17	18
1					1
2					
3					
4					
5	5				
6					
7					
8					
9					
10					
11					
12					
13					

- ☐ Children's
☐ Problems
☐ Checklist
☒

John A. Schlinka, Ph.D.

Child's Name Mia Elena Stipp Age 4

Male _____ Female X Date 9/26/09

DIRECTIONS

On the following pages you will find a list of problems which parents commonly face in raising a child. This list surveys emotions, habits, school, attitudes, and other areas of your child's life.

Read the list carefully and make a check (✓) next to each statement that describes a problem your child has. Circle those statements which you feel are the most important problems at this time. Do your best to review the list as objectively as you can.

EXAMPLE

- 42 is afraid to ask other children to play
 43 tries to be too much like other children
 44 always tries to please others

If your child has problems which are not listed on the following pages, please write them on the bottom of the last page. Your responses will only be discussed with your doctor or counselor.



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Check all problems which apply—Circle the most important.

EMOT/32

- | | |
|--|--|
| 1 <input checked="" type="checkbox"/> frequently seems <u>anxious or tense</u> | 17 seems withdrawn or spends a lot of time alone |
| 2 <input type="checkbox"/> cries easily or often | 18 needs too much affection |
| 3 <input type="checkbox"/> worries a lot | 19 is uncomfortable with affection |
| 4 <input type="checkbox"/> is overly dependent | 20 does not respond to affection |
| 5 <input type="checkbox"/> needs to be reassured frequently | 21 is too concerned with cleanliness |
| 6 <input type="checkbox"/> feelings are easily hurt | 22 is too neat and orderly |
| 7 <input type="checkbox"/> frequently seems sad or depressed | 23 is suspicious |
| 8 <input type="checkbox"/> feels guilty too easily or too often | 24 acts too mature for age |
| 9 <input type="checkbox"/> feels inferior | 25 worries about getting sick |
| 10 <input checked="" type="checkbox"/> is easily embarrassed | 26 has unusual beliefs |
| 11 <input type="checkbox"/> has strong fears | 27 sees or hears things that others do not |
| 12 <input type="checkbox"/> has many fears | 28 is too involved with certain thoughts or ideas |
| 13 <input type="checkbox"/> refuses to sleep alone | 29 has trouble relaxing |
| 14 <input type="checkbox"/> seems uncomfortable in new situations | 30 seems too serious |
| 15 <input type="checkbox"/> is afraid to show anger | 31 <input checked="" type="checkbox"/> repeats certain behaviors over and over again |
| 16 <input checked="" type="checkbox"/> is easily upset | 32 talks often about death or injury |

SEL/18

- | | |
|---|---|
| 33 <input checked="" type="checkbox"/> is self-critical | 42 is afraid to ask other children to play |
| 34 <input checked="" type="checkbox"/> overreacts to small mistakes | 43 tries to be too much like other children |
| 35 <input type="checkbox"/> acts inferior to other children | 44 always tries to please others |
| 36 <input type="checkbox"/> is always a follower, never a leader | 45 is not interested in learning |
| 37 <input type="checkbox"/> gives up easily | 46 is not curious |
| 38 <input type="checkbox"/> is pessimistic | 47 never disagrees |
| 39 <input type="checkbox"/> worries about making mistakes | 48 does not give best effort |
| 40 <input type="checkbox"/> has little self-confidence | 49 appears to be uninterested |
| 41 <input type="checkbox"/> always gives in to other children | 50 is too humble |

PE/PL/18

- | | |
|---|---|
| 51 <input type="checkbox"/> is not friendly to other children | 60 will not play alone |
| 52 <input type="checkbox"/> bullies other children | 61 does not compromise with other children |
| 53 <input type="checkbox"/> hurts or teases other children | 62 <input checked="" type="checkbox"/> is a poor loser in games |
| 54 <input type="checkbox"/> does not share with other children | 63 competes too hard in games |
| 55 <input type="checkbox"/> does not get along with children the same age | 64 has friends who are a bad influence |
| 56 <input type="checkbox"/> is teased a lot by other children | 65 has no hobbies or interests |
| 57 <input type="checkbox"/> is not liked by other children | 66 is shy |
| 58 <input type="checkbox"/> has trouble making friends | 67 is socially immature |
| 59 <input type="checkbox"/> has few friends | 68 has friends that are mainly of the opposite sex |

SCH/14

- | | |
|--|--|
| 69 <input type="checkbox"/> does not finish homework | 76 is considered a problem child in school |
| 70 <input checked="" type="checkbox"/> does not like school | 77 is frequently late to school |
| 71 <input type="checkbox"/> does not get along with children at school | 78 skips school |
| 72 <input type="checkbox"/> does not get along with teachers | 79 frequently gets sick in school |
| 73 <input type="checkbox"/> needs too much attention from teachers | 80 gets poor grades |
| 74 <input type="checkbox"/> is a discipline problem at school | 81 is an underachiever |
| 75 <input type="checkbox"/> blames teachers for problems in school | 82 is in remedial or special education classes |

Continue on next page ►

LANG/THINK/20

- 83 _____ refuses to talk
 84 _____ uses baby talk
 85 _____ misnames things
 86 _____ has trouble understanding instructions
 87 _____ forgets things
 88 _____ has a poor memory
 89 _____ has trouble with time and date
 90 _____ has a poor sense of direction
 91 _____ has trouble knowing right from left
 92 _____ has trouble understanding puzzles and games

- 93 _____ frequently daydreams
 94 _____ does not have good common sense
 95 _____ becomes confused easily
 96 _____ is too involved in fantasies
 97 _____ has an overactive imagination
 98 _____ has trouble with reading
 99 _____ has trouble with spelling or writing
 100 _____ has trouble using tools
 101 _____ talks too fast
 102 _____ stutters or stammers

CON/ORG/10

- 103 _____ does not pay attention
 104 _____ is easily distracted
 105 _____ has trouble finishing projects
 106 _____ cannot finish game or puzzle
 107 _____ acts impulsively

- 108 _____ has trouble getting organized
 109 _____ has trouble planning activities
 110 _____ loses interest quickly
 111 _____ changes mind often
 112 _____ has difficulty following rules

ACT/MO/16

- 113 _____ is uncoordinated
 114 _____ frequently drops or breaks things
 115 _____ bumps into things
 116 _____ is clumsy
 117 _____ has trouble throwing or catching a ball
 118 _____ is neither strongly right or left handed
 119 _____ is overactive
 120 _____ has a lot of accidents

- 121 _____ is frequently hurt or injured
 122 _____ is restless
 123 _____ has trouble sitting still at dinner
 124 _____ is always climbing or running
 125 _____ has tics or twitches
 126 _____ has unexpected movements of arms or legs
 127 _____ has trouble with balance
 128 _____ seems listless or lacks energy

BEH/34

- 129 _____ often interrupts adults or children
 130 _____ is uncooperative
 131 ☒ frequently argues or disagrees
 132 ☒ is disobedient
 133 _____ refuses to listen
 134 ☒ is stubborn
 135 ☒ is resentful
 136 _____ is secretive
 137 _____ is too aggressive
 138 ☒ has a bad temper
 139 ☒ always has to have own way
 140 ☒ threatens to run away from home
 141 _____ intentionally breaks things
 142 _____ is cruel to animals
 143 _____ often brags or boasts
 144 _____ is a show-off
 145 _____ threatens to hurt others

- 146 _____ threatens to hurt self
 147 _____ frequently sulks or pouts
 148 _____ is demanding
 149 _____ manipulates others
 150 _____ plays with matches or fire
 151 _____ swears or uses bad language
 152 _____ wishes to be opposite sex
 153 _____ likes to dress like opposite sex
 154 _____ has been involved in vandalism
 155 _____ smokes, drinks, or uses drugs
 156 _____ is too interested in sex
 157 _____ is in trouble with police
 158 _____ is defiant
 159 _____ is irresponsible
 160 _____ does not complete chores
 161 _____ does not respond to punishment
 162 _____ has a bad reputation

Continue on next page ►

Check all problems which apply—Circle the most important.

VAL/14

- 163 _____ frequently lies
 164 _____ cheats at games
 165 _____ takes or uses other children's toys
 166 _____ steals things from children or adults
 167 _____ blames others for mistakes
 168 _____ takes advantage of others
 169 _____ does not feel guilty after misbehaving

- 170
 171
 172
 173
 174
 175
 176

- is unappreciative
 is unaware of other children's feelings
 does not know right from wrong
 ignores rules
 is disrespectful of authority
 does not keep agreements
 has poor sense of loyalty

HAB/16

- 177 _____ has problem with bedwetting
 178 _____ soils underwear
 179 _____ does not wash
 180 _____ does not brush teeth
 181 _____ sleeps poorly
 182 _____ is frequently tired
 183 _____ has frequent nightmares
 184 _____ has trouble getting to sleep

- 185
 186
 187
 188
 189
 190
 191
 192

- has episodes of sleepwalking
 is overweight
 is underweight
 is a messy eater
 X eats only a few favorite foods *picky eater*
 eats dirt or other non-food material
 is not concerned with appearance
 has poor manners

HEA/10

- 193 _____ is often sick or ill
 194 _____ has allergies
 195 _____ has asthma
 196 _____ has frequent headaches
 197 _____ has frequent stomach aches

- 198
 199
 200
 201
 202

- often complains of being ill
 seems to enjoy being sick
 uses sickness to avoid chores or school
 frequently vomits
 has problems with bowel movements

List any other problems your child might have.

Details of filing titled:
Family Court Motion/Opposition Fee Infromation ...
for Case Number D389203

E-File ID:	783543
Lead File Size:	65096 bytes
Date Filed:	2010-03-08 09:34:37.0
Case Title:	D389203
Case Name:	D389203 - New Case
Filing Title:	Family Court Motion/Opposition Fee Infromation Sheet
Filing Type:	EFO
Filer's Name:	Radford J. Smith, Esq.
Filer's Email:	rsmith@radfordsmith.com
Account Name:	Radford J. Smith, Chartered
Filing Code:	FILE
Amount:	\$ 6.00
Court Fee:	\$ 0.00
Card Fee:	\$ 0.00
Comments:	Stipp - Opp Cover sheet
Courtesy Copies:	kwulf@radfordsmith.com
Firm Name:	Smith Forsberg, Attorneys at Law
Your File Number:	
Status:	Accepted - (A)
Date Accepted:	2010-03-08 10:57:33.0
Review Comments:	
Reviewer:	Shepard, Charlene
File Stamped Copy:	D389203-783543 FILE Family Court Motion Opposition Fee Infromation Sheet.pdf
Cover Document:	
Lead Document:	Stipp - Cover Sheet.pdf 65096 bytes
Data Reference ID:	
Credit Card Response:	System Response: Approved Reference: VPCC4F1F6E8A

Details of filing titled:
Family Court Motion/Opposition Fee Infomation ...
for Case Number D389203

E-File ID:	783543
Lead File Size:	65096 bytes
Date Filed:	2010-03-08 09:34:37.0
Case Title:	D389203
Case Name:	D389203 - New Case
Filing Title:	Family Court Motion/Opposition Fee Infomation Sheet
Filing Type:	EFO
Filer's Name:	Radford J. Smith, Esq.
Filer's Email:	rsmith@radfordsmith.com
Account Name:	Radford J. Smith, Chartered
Filing Code:	OPPS
Amount:	\$ 6.00
Court Fee:	\$ 0.00
Card Fee:	\$ 0.00
Comments:	Stipp - Opp Cover sheet
Courtesy Copies:	kwulf@radfordsmith.com
Firm Name:	Smith Forsberg, Attorneys at Law
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Status:	Pending - (P)
Date Accepted:	
Review Comments:	
Reviewer:	
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Cover Document:	
Lead Document:	Stipp - Cover Sheet.pdf
Data Reference ID:	
Credit Card Response:	System Response: Approved Reference: VPCC4F1F6E8A

1 0001

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 CHRISTINA CALDERON STIPP,

9 Plaintiff(s),

10 -VS-

11 MITCHELL DAVID STIPP,

12 Defendant(s).

CASE NO. D-08-
389203-Z

DEPT. NO. O

13 FAMILY COURT
14 MOTION/OPPOSITION FEE
15 INFORMATION SHEET
(NRS 19.0312)

16 Party Filing Motion/Opposition: ☐ Plaintiff/Petitioner ☒ Defendant/Respondent

17 MOTION FOR OPPOSITION TO PLAINTIFF'S MOTION TO
18 REHEAR/RECONSIDER THE HEARING OF DECEMBER 8, 2009; AND/OR TO
19 CLARIFY THE COURT'S RULINGS FROM THAT HEARING; FOR PLAINTIFF'S
20 ATTORNEY'S FEES; AND RELATED RELIEF AND COUNTERMOTION FOR
21 SANCTIONS UNDER E.D.C.R.7.60

22 **Motions and**
23 **Oppositions to Motions**
24 **filed after entry of a final**
25 **order pursuant to NRS**
26 **125, 125B or 125C are**
27 **subject to the Re-open**
28 **filing fee of \$25.00,**
unless specifically
excluded. (NRS 19.0312)

NOTICE:

*If it is determined that a motion or
opposition is filed without payment
of the appropriate fee, the matter
may be taken off the Court's
calendar or may remain undecided
until payment is made.*

Mark correct answer with an "X."

1. No final Decree or Custody Order has been
entered. ☒ YES ☐ NO
2. This document is filed solely to adjust the amount of
support for a child. No other request is made.
☐ YES ☒ NO
3. This motion is made for reconsideration or a new
trial and is filed within 10 days of the Judge's Order
If YES, provide file date of Order: _____
☐ YES ☒ NO

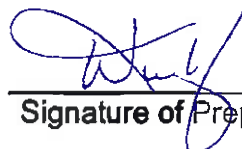
If you answered YES to any of the questions above,
you are not subject to the \$25 fee.

Motion/Opposition ☒ IS ☐ IS NOT subject to \$25 filing fee

R.App.pg.140

Dated this 8th of March, 20010

1 Kelly R. Wulf
2 Printed Name of Preparer


Signature of Preparer

Motion-Opposition Fee.doc/1/30/05



CLERK OF THE COURT

SUPP
RADFORD J. SMITH, CHARTERED
RADFORD J. SMITH, ESQ.
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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.: 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 Partics 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
26
27
28

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

3 II.

4 STATEMENT OF FACTS

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

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

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

8 III.

9 ARGUMENT

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

12 a. Mitchell does not abuse alcohol.

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

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

23
24 Dr. Paglini concluded that Mitchell is aware of Christina's concern about his driving record and
25 that Mitchell obviously does not want to place his children in jeopardy. While Dr. Paglini cautioned
26 Mitchell on this issue, he believes Mitchell will engage in appropriate conduct.
27

28 ...

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

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

11 **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,
27
28

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).

24 Dr. Paglini's report seems to indicate that Mia at the time of his assessment did not present any
25 symptoms of emotional abuse or alienation. Of course, significant time has passed since Mitchell filed
26 his motion on October 29, 2009. Dr. Paglini began his work on the child custody evaluation at the end
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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,¹ 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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¹ Although not relevant to the motions before the Court, Dr. Paglini never concluded in his report that Mitchell had an affair while married to Christina.

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

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

20 **3. Mitchell has demonstrated adequate cause for an evidentiary hearing.**
21

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.
10
11

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.
14
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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
28

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

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

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

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.

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 visitation² with the children weekends from 6:00
10 p.m. on Fridays until 6:00 p.m. on Sundays except as follows: (1) on the first weekend of the month,
11 Christina has the right to have the children on the weekend in which case Mitchell's time is Wednesday
12 at 6:00 p.m. until Friday at 6:00 p.m.; and (2) on the second and fourth weekends of the month,
13 Mitchell's weekend visitation begins on Thursdays at 6:00 p.m. Mitchell also has holiday and vacation
14 visitation with the children throughout the year. Thus, Mitchell has the children in his physical custody
15 all or part of three or four days each week.
16
17

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

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

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

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

4
5 Under *Rivero*, the Court must make *findings of fact supported by substantial evidence* to
6 support its determination of physical custody. *Id.* at 227 (citation omitted). The Nevada Supreme Court
7 concluded that “[s]pecific factual findings are crucial to enforce or modify a custody order and for
8 appellate review.” *Id.* Therefore, the court “must evaluate the *true nature* of the custodial
9 arrangement,” pursuant to the standards for calculating the timeshare as described above, “by evaluating
10 the arrangement the parties are *exercising in practice*,” regardless of any contrary language in the
11 Degree (and MSA as modified by the SAO). *See id.* (emphasis added). If the Court views Mitchell’s
12 motion as a request to change custody, the Court must examine the actual physical custodial
13 arrangement of the parties at the hearing on May 6, 2010 (or it could make this determination at an
14 evidentiary hearing).

15
16
17 **b. An equal timeshare arrangement is in the best interests of the children.**

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

24
25 Virtually all psychological studies of post divorce child rearing suggest that the parents’ ability
26 to cooperate after divorce is the single most important factor in the children’s well being.

27
28 High-conflict harms children whether it originates with the parents or is fueled by others
in the adversarial system. The level and intensity of parental conflict is now thought to be

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

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

17
18
19 The realization that children are better off with both parents has been a long time in
20 coming. Throughout most child-custody litigation in the past, the child was "awarded" to
21 one parent or the other; one parent "won" custody, and the other "lost." In either case,
22 the child lost because the child was in many cases unnecessarily deprived of one parent.
23 Courts, until recently, seem to have been unable to grasp the rather simple fact that most
24 children have two loving parents and are entitled to the love of both -- to the greatest
25 extent possible -- in the event that the two parents decide not to live together in one
26 household.

27 [. . .]

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

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

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

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

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

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

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

18 Not applicable.
19

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

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

27 ...

28 ...

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

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

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

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

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

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

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

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

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

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

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

18 Mitchell's consistent and regular contact with the parties' very young children is supported,
19 again, by virtually all psychological studies, which studies uniformly suggest that contact between
20 parents and young children be frequent and meaningful, and include overnights. See, e.g., the
21 comprehensive study of the body of psychological data on infants and toddlers found in Family and
22 Conciliation Courts Review; Los Angeles Jul 2000 Joan B Kelly; Michael E Lamb; Volume: 38 Issue:
23 3: 297-311, Sage Publications. ISSN: 1047569. Under the current timeshare plan, Mitchell is now
24 precluded from seeing the children for several days at a time. He no longer is permitted to visit them
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1 while at school, and he does not have any communication with the children while they are in the care of
2 Christina.

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

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

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

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

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

14 Nonc; 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.

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

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

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

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

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

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

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

6 IV.

7 CONCLUSION

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

- 9
- 10 1. Grant Mitchell's request to file this supplement pursuant to EDCR 2.20(f).
 - 11 2. Grant Mitchell's request for an evidentiary hearing on his motion and authorize discovery
12 on child custody matters, or alternatively, if the Court does not order an evidentiary hearing, grant
13 Mitchell's motion confirming the parties as joint physical custodians of the children and providing
14 Mitchell an equal timeshare.
 - 15 3. Grant Mitchell's request to be reimbursed \$16,250 for the costs of the child custody
16 evaluation and \$5,000 for attorney's fees and costs for opposing Christina's motion for reconsideration
17 heard by the Court on April 13, 2010.
18
- 19

20 DATED this 3rd day of May, 2010.

21
22 RADFORD J. SMITH, CHARTERED

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

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CERTIFICATE OF SERVICE

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

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

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

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

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

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

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


An employee of Radford J. Smith, Chartered

EXHIBIT A

1 AFFIDAVIT OF MITCHELL DAVID STIPP

2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

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

6
7 1. I am the Defendant in the case of *Stipp v. Stipp*, case number D-08-389203-Z in the Eighth
8 Judicial District Court, State of Nevada. I submit this affidavit in support of my "Supplement to Motion to
9 Confirm Parties as Joint Physical 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" (the "Supplement").

12
13 2. I have personal knowledge of the facts contained in the Supplement, I am competent to
14 testify thereto, and the facts contained therein are true and accurate to the best of my knowledge and belief.

15
16 FURTHER, AFFIANT SAYETH NOT.

17
18 

19 MITCHELL DAVID STIPP

20
21 Subscribed and sworn before me this 3rd
22 day May, 2010.

23 
24 NOTARY PUBLIC in and for
25 the State of Nevada

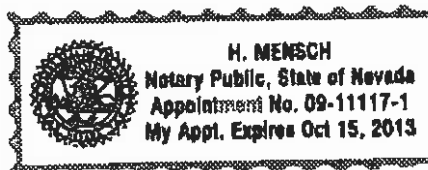


EXHIBIT B

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

December 4, 2009

Sent Via Facsimile: (702) 804-0275

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) "Momma doesn't like Amy."
- (5) "Momma says Amy is bad, but I like her."
- (5) Most recently, Mia has stated, "Momma doesn't say anything bad about Dada and Amy anymore."

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

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

Sincerely,

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

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

CHRISTINA CALDERON STIPP

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

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 telephonic conversation on January 2, 2010, you stated the following:

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

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

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

15) That the Minute Order of the court authorizing simultaneous treatment of Mia by different psychologists conflicts with current ethical guidelines applicable to psychologists;

16) That having Mia seen by multiple psychologists may negatively affect Mia given the potential of contradictory or conflicting treatment by different providers;

17) That Mitch misrepresented to you that the first time he heard about Dr. Mishalow was at the last hearing in our case; and

18) That Mitch misrepresented to you that I had been seeking treatment of Mia with Dr. Mishalow without Mitch's knowledge, consent or involvement.

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

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

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

Sincerely,

Christina Calderon Stipp
Christina Calderon Stipp

cc: Dean 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

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 50% 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.

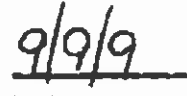
Plan: I will call Christina to let her know that I spoke with Mitchell and that Mia's first therapy session is set for Friday, September 11th at 5.30pm. Then I will begin seeing Mia on, most likely, a weekly basis for individual therapy to rule out an OCD problem with clothing, while providing cognitive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

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

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

Client: Mia Stipp

Date: 9-19-2009

Time: 2.30pm – 3.25pm

Duration: 55 minutes

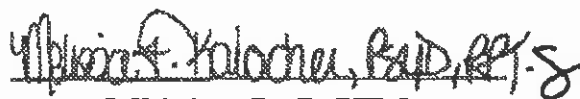
Code: 90806

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 needs 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

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 "fight" 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

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 Arny 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

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

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

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

Clinical Child Psychologist

Registered Play Therapist – Supervisor

9-28-09

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**

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

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

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**

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

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

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

December 4, 2009

Sent Via Facsimile. (702) 304-0275

Mitchell Stipp

2055 Alcova Ridge Drive

Las Vegas, Nevada 89135

RE: Mia Stipp

Dear Mr. Stipp,

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

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

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

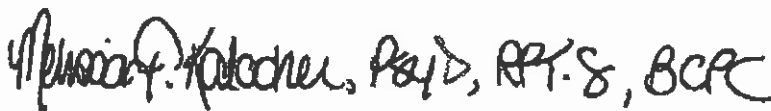
I informed you of my conversation with Christina. You indicated to me that you and your wife, Amy Stipp, wanted my assistance with Mia's clothing issues and to assess how Mia was coping with the divorce. As you know, I evaluated Mia for approximately five sessions of fifty minutes each. During these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

- (1) "I want to spend more time with my Dada but Mommy says we can't change the rules."
- (2) "I want to spend more time with my Dada but the judge won't let me."
- (3) "Amy was married to James."
- (4) "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
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**

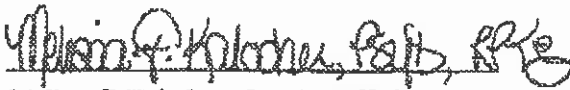
Client: Mia Stipp**Date: 12-19-2009****Time: 2:30pm – 3:20pm****Duration: 50 minutes****Code: 90806**

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**

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

Client: Mia Stipp

Date: 12-31-2009

Time: 5.30am – 6.20am

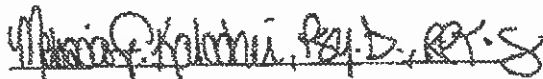
Duration: 50 minutes

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.

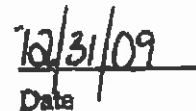
Mia will be seen again 1-08-2010 at 1pm.



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

Clinical Child Psychologist

Registered Play Therapist – Supervisor



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**

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 8th 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

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

Client: Mia Stipp

Date: 1-08-2010

Time: 1pm – 2pm

Duration: 1 hour

Code: 90806/90846

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

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



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

Clinical Child Psychologist

Registered Play Therapist – Supervisor


Date

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

January 12, 2010

Sent Via Facsimile (702) 240-4937

Dear Christina,

Records on Mia Stipp will be sent by the 15th 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

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
Jun 28 2011 11:58 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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

16 Attorneys for Respondent/Cross-Appellant Mitchell Stipp

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**IN THE SUPREME COURT OF
THE STATE OF NEVADA**

CASE NO.: 57327

CHRISTINA CALDERON STIPP,
Appellant/Cross-Respondent,
v.
MITCHELL DAVID STIPP
Respondent/Cross-Appellant,

**RESPONDENT/CROSS-APPELLANT'S APPENDIX TO
FAST TRACK STATEMENT AND RESPONSE**

RADFORD J. SMITH, ESQ.
Nevada Bar No. 002791
64 N. Pecos Road, Suite 700
Henderson, Nevada 89074
(702) 990-6448

MITCHELL D. STIPP, ESQ.
Nevada Bar No. 007531
7 Morning Sky Lane
Las Vegas, Nevada 89135
(702) 378-1907

Attorneys for Respondent/Cross-Appellant Mitchell Stipp

1
2 **ALPHABETICAL INDEX**

3 **CASE NO. 57327**
4

5

DOCUMENT TITLE	FILED DATE	PAGE NOS.
Affidavit of Mitchell David Stipp in Support of Defendant's Motion for Reconsideration; Motion for Rehearing; or in the Alternative, Motion to Modify Joint Timeshare	04/28/2009	1-24
Opposition to Plaintiff's Motion to Rehear/Reconsider the Hearing of December 8, 2009; and/or Clarify the Court's Rulings from that Hearing; for Plaintiff's Attorney's Fees; and Related Relief and Countermotion for Sanctions under EDCR 7.60	03/08/2010	25-141
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	05/03/2010	142-198

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CLERK OF THE COURT

AFFD

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.: D-08-389203-Z

DEPT NO.: 0

FAMILY DIVISION

**AFFIDAVIT OF MITCHELL DAVID STIPP IN SUPPORT OF DEFENDANT'S MOTION FOR
RECONSIDERATION; MOTION FOR REHEARING; OR IN THE ALTERNATIVE, MOTION
TO MODIFY JOINT TIMESHARE**

COMES NOW Defendant, MITCHELL DAVID STIPP, by and through his attorneys,
RADFORD J. SMITH, ESQ., of the law firm of Radford J. Smith, Chartered, and hereby submits the
attached Affidavit of Mitchell David Stipp in Support of Defendant's Motion for Reconsideration;

...

...

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...

...

1 Motion for Rehearing; or in the Alternative, Motion to Modify Joint Timeshare.
2
3

4 DATED this 28th day of April, 2009.

5 RADFORD J. SMITH, CHARTERED

6 By: 

7 RADFORD J. SMITH, ESQ.

8 Nevada Bar No. 002791

9 64 North Pecos Road, Suite 700

10 Henderson, Nevada 89074

11 Attorney for Defendant
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CERTIFICATE OF SERVICE

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

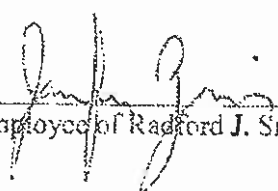
I served the foregoing document described as "Affidavit of Mitchell David Stipp in Support of Defendant's Motion for Reconsideration; Motion for Rehearing; or in the Alternative, Motion to Modify Joint Timeshare" on this 28th day of April, 2009, to all interested parties as follows:

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

James J. Jimmerson, Esq.
415 South Sixth Street, #100
Las Vegas, Nevada 89101
702-387-1167


An employee of Radford J. Smith, Chartered

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1. *What is the purpose of the study?*
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 3. *What is the hypothesis?*
 4. *What is the significance of the study?*
 5. *What is the scope of the study?*
 6. *What is the methodology?*
 7. *What are the results?*
 8. *What are the conclusions?*
 9. *What are the limitations?*
 10. *What are the implications?*

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1 to see them during the week. See Email from Mitchell dated March 6, 2009 attached as part of Exhibit
2 A. I believed that Christina would be more amenable to modifying the existing timeshare arrangement
3 if I agreed to make this payment. For this reason, I also agreed to pay one-half (1/2) of the children's
4 private pre-school tuition for the 2009-2010 school year. See Email from Mitchell dated March 16,
5 2009 attached as part of Exhibit A.
6

7 4. Since the date of the hearing on February 24, 2009, I have regularly requested for Christina
8 to modify the existing timeshare arrangement and provide me more time with the children. Christina
9 has exercised her weekend visitation both in March and in April of 2009 and for the weekend prior to
10 Ethan's birthday and has refused to modify the timeshare arrangement. See Emails from Christina dated
11 March 3, 2009, March 15, 2009, March 29, 2009, and March 31, 2009. Although Christina has provided
12 additional time with the children, it has been conditional, limited and amounts only to the following
13 since the date of the previous hearing: (a) Thursday, March 5, 2009 at 9:00 am to Friday, March 6, 2009
14 at 9:00 am (while the children were withdrawn from TBS and Christina was "investigating" alternative
15 activities for them). See Email from Christina dated March 4, 2009; (b) Sunday, March 15, 2009 at 6:00
16 pm to Monday, March 16, 2009 at 9:00 am (while Ethan was sick, Christina and I agreed it would be
17 better for me to keep him overnight while he slept rather than wake him up to drop him off at Christina's
18 house); (c) Saturday, March 21, 2009 at 5:00 pm to Monday, March 23, 2009 at 5:00 pm (Christina had
19 the children on Friday and Saturday for Ethan's birthday). See Emails from Mitchell dated March 19,
20 2009 and Christina dated March 20, 2009; (d) Monday, April 6, 2009 at 9:00 am to Thursday, April 10,
21 2009 at 7:00 pm (in lieu of my visitation on Easter weekend and make up for vacation time cut short by
22 Christina in December of 2008), See Emails from Mitchell and Christina dated February 27, 2009; and
23 (e) Friday, May 1, 2009 at 6:00 pm to Sunday, May 3, 2009 at 6:00 pm (Christina waived weekend
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1 visitation for the first time in exchange for ballet recital participation by Mia at the end of May). See
2 Emails from Mitchell and Christina dated April 23, 2009.


3
4 5. I spoke to Christina in the parking lot of TBS on Friday, April 24, 2009. I informed her
5 that I would like to have more time with the children and for her to modify the existing timeshare
6 arrangement. She informed me that she would consider doing it "in a year or so" and that she would
7 never provide me additional time if I filed a motion for reconsideration and/or appealed the previous
8 court's ruling to the Nevada Supreme Court. At that time, I informed her that I intended to file the
9 motion and would appeal if the motion was unsuccessful.
10

11 6. The school year at TBS ends in June of 2009, and during the summer months, I will not be
12 able to see my children daily while at school. I love my children and would like to continue to see them
13 regularly. The only hope I have for this possibility is for the court to modify the existing timeshare
14 arrangement to provide me more time because despite good faith attempts I cannot reach an agreement
15 with Christina.
16

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19 FURTHER, AFFIANT SAYETH NOT.
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21 
22 MITCHELL DAVID STIPP
23

24 Subscribed and sworn before me this 27th
25 day April, 2009.

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28 NOTARY PUBLIC in and for
the State of Nevada

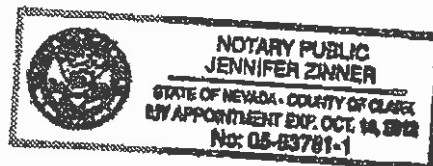


EXHIBIT A

EMAIL CORRESPONDENCE (Attached Chronologically)

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Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Wednesday, February 25, 2009 9:53 AM
To: Mitchell Stipp
Subject: Kids' Schooling 2009-2010

Mitch,

In light of yesterday's ruling, and after careful consideration of the financial obligations now incumbent upon me, I will not be able to enroll the children in private school from today forward. If you choose to honor your previous commitment to share equally in the cost of our children's education, please let me know immediately so that our children can reap the benefits of private school education.

I received an extension of one week's time to enroll our children in their respective schools for the 2009-2010 school year. Please let me know of your decision prior to that deadline.

--Christina

4/27/2009

R.App.pg.8

Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Friday, February 27, 2009 4:57 PM
To: Mitchell Stipp
Subject: Re: Re:

Great. It's a deal. Monday the 6th at 9am until Thurs. the 10th at 7pm.
So you won't have them at all on Easter weekend, correct? Will you be taking them out of town? I ask because I'll probably take them to California for Easter then to spend it with my family there.

On Fri, Feb 27, 2009 at 4:50 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:
Yes.

From: Christina Calderon-Stipp <ccstipp@gmail.com>
Sent: Friday, February 27, 2009 4:45 PM
To: Mitchell Stipp <mitchell.stipp@yahoo.com>
Subject: Re: Re:

Can you take them from 9:00 am on the 6th until 7:00 pm on the 9th?

On Fri, Feb 27, 2009 at 4:40 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:
Yes. So I will have them 12pm on 6th until 12pm on 9th. Ok?

From: Christina Calderon-Stipp <ccstipp@gmail.com>
Sent: Friday, February 27, 2009 4:34 PM
To: Mitchell Stipp <mitchell.stipp@yahoo.com>
Subject: Re:

Mitchell.

"Can you do April 6-9th instead"

--Christina

On Fri, Feb 27, 2009 at 2:30 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:
Christina:

Easter Sunday is April 12th of this year. I would appreciate switching my weekend/holiday time with the children for time during the week. Is it possible to have the children from Tuesday at 12pm on April 7th until Friday at 12pm on April 10th? I know this period is longer than my usual weekend but you still owe me a day from the holidays. Please let me know in the next day or two.

4/27/2009

R.App.pg.9

From: Mitchell Stipp [mailto:mitchell.stipp@yahoo.com]
Sent: Sunday, March 01, 2009 4:48 PM
To: 'Christina Calderon-stipp'
Subject: RE: RE: Re:

I am not sure what your February 25th email provides on the matter. It appears only to address tuition for the children during the 2009-2010 school year. Although you said in your email that the children could not continue to go to school from "today forward," I do not know what this means. If you paid for TBS for the year, the children should still be able to attend. Frankly, I am not sure how you can simply withdraw them from school in the middle of the year.

With respect to the children's condition this weekend, you should note that both have a cold. Symptoms include running/stuffy nose and coughing. Mia vomited from coughing on Friday night. She also had a fever on Saturday night. Mia is much worse than Ethan, but both appear to be doing better today. I have been giving them Motrin (Mia's fever), Mucinex (Ethan's cough) and Robitussin (Mia's cough). Both also had vaporizers at night and Vicks vapor rub placed on their chests.

I would like to see the children this week. I am available any time. Please let me know when the children are available and I will pick them up. I can spend any morning or afternoon with them. I also can keep them over night too any day. I would ask that you give me at least 2 hours' notice. Please let me know.

From: Christina Calderon-stipp [mailto:ccstipp@gmail.com]
Sent: Sunday, March 01, 2009 1:49 PM
To: Mitchell Stipp
Subject: Re: RE: Re:

Our children are no longer enrolled at tbs. Refer to my February 25, 2009 email on the matter.

Sent from my iPhone

Mitchell Stipp

From: Christina Calderon-Stipp (ccstipp@gmail.com)
Sent: Wednesday, March 04, 2009 3:21 PM
To: Mitchell Stipp
Subject: Additional Time This Week 3.4.09

Mitch,

Are you interested in taking the children from 9am tomorrow until 9am on Fri.? Let me know as soon as possible if that works for you.

As I told you yesterday, I am in the process of investigating, enrolling, and involving the children in various activities should we be unable to reach an agreement as to preschool cost-sharing thus necessitating our children's permanent withdrawal from preschool.

--Christina

4/27/2009

R.App.pg.11

Mitchell Stipp

From: Mitchell Stipp [mitchell.stipp@yahoo.com]
Sent: Friday, March 05, 2009 10:59 AM
To: mitchell.stipp@yahoo.com
Subject: Fw: This Weekend/Weekday Time

----- Forwarded Message -----

From: Mitchell Stipp <mitchell.stipp@yahoo.com>
To: Christina Calderon-Stipp <ccstipp@gmail.com>
Sent: Tuesday, March 3, 2009 12:40:28 PM
Subject: Re: This Weekend/Weekday Time

I am disappointed by your decision to withdraw the children from school. I enjoyed spending time with them there. Since they will not be in school, I assume that their schedule is more flexible to provide me additional time to see them. I have asked you several times since Sunday to provide me days and times that I can see the children this week. Your email is non-responsive to my request.

From: Christina Calderon-Stipp <ccstipp@gmail.com>
To: Mitchell Stipp <mitchell.stipp@yahoo.com>
Sent: Tuesday, March 3, 2009 8:19:14 AM
Subject: This Weekend/Weekday Time

Mitch.

I have weekend plans with the children, therefore, I will be keeping them this weekend.

With respect to your request for weekday time this week, I will certainly advise you if and when the children's schedule is amenable to it. I will respect your request for 2 hours advance notice.

Thanks.
Christina

4/27/2009

R.App.pg.12

Mitchell Stipp

From: Mitchell Stipp [mitchell.stipp@yahoo.com]
Sent: Friday, March 06, 2009 12:00 PM
To: 'Christina Calderon-Stipp'
Subject: RE: Remainder of the TBS School Term 2009

I will pay the outstanding amount today without obligation to do so in the future and expect the children to be in school on Monday

From: Christina Calderon-Stipp [mailto:ccstipp@gmail.com]
Sent: Thursday, March 05, 2009 10:15 PM
To: Mitchell Stipp
Subject: Remainder of the TBS School Term 2009

Mitch,

As we continue to work toward a resolution on the issue of cost-sharing with respect to the children's educational expenses, I wanted to offer you the opportunity to keep the children enrolled at TBS for the remainder of this year, provided that you pay the remaining outstanding balance, which is approximately \$6,000. It is up to you. If you choose to do so, let me know and simply contact Jennifer at their school regarding your payment options. If you do not want to pay, I will simply keep them withdrawn from school. As we discussed, I will be enrolling them in alternative, less expensive activities and, as I told you earlier, I have already secured a release with respect to the remainder of my tuition obligations given our continuing inability to reach a resolution on cost-sharing.

Please let me know by tomorrow. TBS needs a decision by then.

--Christina

4/27/2009

R.App.pg.13

Mitchell Stipp

From: Mitchell Stipp [mitchell.stipp@yahoo.com]

Sent: Tuesday, March 10, 2009 10:13 PM

To: 'Christina Calderon-Stipp'

Christina:

It has been almost one week since we spoke about my request for more visitation time with the children and the children's educational expenses. You still have not provided me the additional time I have requested in the form of a modification to the visitation schedule. You indicated in our call last week that the judge's decision precludes me from seeing the children other than as set forth in the current schedule and that you did not intend to provide me additional time. I disagree with your view of the judge's decision and again renew my request for additional time. I would like to see the children more during the week, and I would like such visitation to take the form of a modification to the visitation schedule. Having a definitive schedule is better for the children. I know that you communicated to me that you may move to California next year as a way to obtain the primary physical custody designation you desperately desire and that limiting my visitation of the children to the current schedule will help you achieve this goal; however, I ask you to please consider the impact to the children of your current position and plans and please provide me more time. I am available any time this week to see the children. Please let me know when I can pick them up.

I visited with the children at school this week. I really enjoy seeing them there (although I am not happy with the "pay to see your children" approach that you have taken). Mia did ask on Monday morning in front of all of her class, "Dada, did you pay?" It appears from this question and other comments Mia has made to me that you told her that she was not in school last week because I did not pay. This type of behavior is not appropriate for a parent, and I would ask you to refrain from "using" the children in this manner. For the record, TBS did not release you from your obligations. I satisfied them by paying the remaining balance on the account. Your request to be released for economic hardship was denied (as it should have been since you are more than capable of paying).

I would like to know if you are still planning not to enroll the children in school next year. If you still plan not to enroll them, I would ask that you re-consider.

4/27/2009

R.App.pg.14

Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Sunday, March 15, 2009 11:24 PM
To: Mitchell Stipp
Subject: Settlement Offer Re Kids' 2009-2010 Schooling 3 15.09

Mitchell,

I do not desire to modify our current timeshare for all of the reasons set forth in detail in all of my pleadings, argued extensively by my counsel, and spelled out clearly by Judge Sullivan on 2/24/09 when he denied your counter-motion for such modification.

I dispute the factual allegations you make below as they are demonstrably false.

In response to your request that I reconsider my strictly financially-based decision not to enroll the children in private preschool next year, I make the following final settlement offer with respect to this subject, which will expire at 5pm on Monday, March 16, 2009:

Provided that there are still spaces left for our children, I will agree to enroll Mia at Alexander Dawson and Ethan at TBS for the 2009-2010 school year (August through May) provided that you pay for 1/2 of the total cost of their combined annual tuition.

--Christina

On Tue, Mar 10, 2009 at 10:12 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:

Christina:

It has been almost one week since we spoke about my request for more visitation time with the children and the children's educational expenses. You still have not provided me the additional time I have requested in the form of a modification to the visitation schedule. You indicated in our call last week that the judge's decision precludes me from seeing the children other than as set forth in the current schedule and that you did not intend to provide me additional time. I disagree with your view of the judge's decision and again renew my request for additional time. I would like to see the children more during the week, and I would like such visitation to take the form of a modification to the visitation schedule. Having a definitive schedule is better for the children. I know that you communicated to me that you may move to California next year as a way to obtain the primary physical custody designation you desperately desire and that limiting my visitation of the children to the current schedule will help you achieve this goal; however, I ask you to please consider the impact to the children of your current position and plans and please provide me more time. I am available any time this week to see the children. Please let me know when I can pick them up.

I visited with the children at school this week. I really enjoy seeing them there (although I am not happy with the "pay to see your children" approach that you have taken). Mia did ask on Monday morning in front of all of her class, "Dada, did you pay?" It appears from this question and other comments Mia has made to me that you told her that she was not in school last week because I did not pay. This type of behavior is not

4/27/2009

R.App.pg.15

appropriate for a parent, and I would ask you to refrain from "using" the children in this manner. For the record, TBS did not release you from your obligations. I satisfied them by paying the remaining balance on the account. Your request to be released for economic hardship was denied (as it should have been since you are more than capable of paying)

I would like to know if you are still planning not to enroll the children in school next year. If you still plan not to enroll them, I would ask that you re-consider.

Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Monday, March 16, 2009 5:00 PM
To: Mitchell Stipp
Subject: Re: Settlement Offer Re Kids' 2009-2010 Schooling 3.15.09

Mitch,

Dawson's tuition is \$9950 for 5 half days a week.

TBS is \$10,600 plus a \$250 registration fee for 5 half days a week (They have an opening for 2 half days a week at \$5900 for the year that I am also very comfortable with if you think Ethan should only go 2 days a week).

Both have contracts to be completed and turned in to secure placement. Since I have the Dawson paperwork already filled out, I'll sign the Dawson contract and you do the TBS one.

Did you get the TBS forms from the school in the kids folder a while back? If not, I'll leave you mine in Mia's folder tomorrow and you can deal with it with Jennifer directly. Once you confirm your enrollment at TBS, I'll enroll Mia at Dawson. As for the difference, I'll pay you the difference directly (or you can always choose to forgive it given my payment of 14k for the kids school last year).

--Christina

On Mon, Mar 16, 2009 at 3:54 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:
Christina:

I am extremely disappointed that you will not modify the current timeshare schedule to provide me more time with the children. For the record, the judge was very clear that he thought I should have more time with the children (but that he desired that we work together to reach an agreement). It is apparent based on your email below that such an agreement cannot be reached.

With respect to the children's private school tuition, I agree to pay 1/2 of the combined annual tuition for Ethan to attend TBS and Mia to attend Alexander Dawson for the 2009-2010 school year. Please provide me with payment information and I will pay the same promptly.

Note that I am available any day and night to see the children. Please let me know if and when I can pick them up.

From: Christina Calderon-Stipp <ccstipp@gmail.com>
To: Mitchell Stipp <mitchell.stipp@yahoo.com>
Sent: Sunday, March 15, 2009 11:23:44 PM

4/7/2009

R.App.pg.17

Subject: Settlement Offer Re Kids' 2009-2010 Schooling 3.15.09

Mitchell.

I do not desire to modify our current timeshare for all of the reasons set forth in detail in all of my pleadings, argued extensively by my counsel, and spelled out clearly by Judge Sullivan on 2/24/09 when he denied your countermotion for such modification.

I dispute the factual allegations you make below as they are demonstrably false.

In response to your request that I reconsider my strictly financially-based decision not to enroll the children in private preschool next year, I make the following final settlement offer with respect to this subject, which will expire at 5pm on Monday, March 16, 2009:

Provided that there are still spaces left for our children, I will agree to enroll Mia at Alexander Dawson and Ethan at TBS for the 2009-2010 school year (August through May) provided that you pay for 1/2 of the total cost of their combined annual tuition.

--Christina

On Tue, Mar 10, 2009 at 10:12 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:

Christina,

It has been almost one week since we spoke about my request for more visitation time with the children and the children's educational expenses. You still have not provided me the additional time I have requested in the form of a modification to the visitation schedule. You indicated in our call last week that the judge's decision precludes me from seeing the children other than as set forth in the current schedule and that you did not intend to provide me additional time. I disagree with your view of the judge's decision and again renew my request for additional time. I would like to see the children more during the week, and I would like such visitation to take the form of a modification to the visitation schedule. Having a definitive schedule is better for the children. I know that you communicated to me that you may move to California next year as a way to obtain the primary physical custody designation you desperately desire and that limiting my visitation of the children to the current schedule will help you achieve this goal; however, I ask you to please consider the impact to the children of your current position and plans and please provide me more time. I am available any time this week to see the children. Please let me know when I can pick them up.

I visited with the children at school this week. I really enjoy seeing them there (although I am not happy with the "pay to see your children" approach that you have taken). Mia did ask on Monday morning in front of all of her class "Dada, did you pay?" It appears from this question and other comments Mia has made to me that you told her that she was not in school last week because I did not pay. This type of behavior is not appropriate for a parent, and I would ask you to refrain from "using" the children in this manner. For the record TBS did not release you from your obligations. I satisfied them by paying the remaining balance on the account. Your request to be released for economic hardship was denied (as it should have been since you are more than capable of paying).

I would like to know if you are still planning not to enroll the children in school next year. If you still plan not

4/27/2009

R.App.pg.18

to enroll them, I would ask that you re-consider

Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Friday, March 20, 2009 7:10 PM
To: Mitchell Stipp
Subject: Re:

Mitchell,

Notwithstanding the fact that you recently unilaterally rejected a request by me to have extra time with the children to take them to a family birthday party and thereafter absconded out-of-town with the children, yet again, without giving prior written notice and without ever providing an itinerary detailing your travel arrangements as called for by our Marital Settlement Agreement, I gave you extra time with the children both last weekend and the week before.

Your email below is equally troubling to the extent that you had two-weeks prior written notice by me of my intention to celebrate Ethan's birthday on 3/21/09 as provided for in our MSA. On Tuesday, your sister also verbally relayed my intention to you of celebrating on that day, yet you appear to have deliberately waited until you thought my notice period had expired before questioning me about my plans.

Please be advised that as I told you very clearly last week via email, I have no desire to modify the timeshare we clearly agreed upon in February 2008.

Notwithstanding the above, I offer you the following additional time with the children should you so desire to have them during this time: Sat. 3/21/09 from 5pm until Monday 3/23/09 at 5pm. I already made plans with the children during the rest of week in addition to their usual school obligations.

--Christina

On Thu, Mar 19, 2009 at 10:33 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:

Christina: You never responded to my request for more time with the children last week or this week. I understand from Megan that you intend to keep the children on Friday and Saturday due to Ethan's birthday. I am not objecting to it specifically if you planned a birthday party for Ethan on either of those days but failed to provide me the required 3-day written notice. I would, however, like to keep the kids on Sunday through 12pm on Wednesday (or longer if you permit). Please advise.

4/27/2009

R.App.pg.20

Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Sunday, March 29, 2009 6:05 PM
To: Mitchell Stipp
Subject: Re:

Mitchell,

Thank you for the information below regarding Mia's bowel movements.

I am shocked by your email below regarding your accusation that I would ever speak to our children about the end of our marriage in such a fashion. It would only serve to hurt and confuse the children, and I would never, and I repeat, never, do such a thing.

I question the veracity and motivation of those statements given your previously stated commitment to continuing to litigate custodial modification between us given that, as you claim, you have the "time, desire, and unlimited resources to do so," but lack the legal or logical justification for such action. Similarly, I question the statements you have attributed to me in the past, i.e., that I told Mia about your refusal to pay for her schooling, etc. However, I cannot do anything more than to assure you that it did not happen in the past nor will it ever happen in the future.

I would ask the same of you. As you will recall, shortly after the hearing, I facilitated a telephone call from Mia to you and heard you tell Mia that "Mommy is keeping you from me." I called you out for your statement the moment you said it, and I hope that it does not continue even though Mia tells me frequently that you tell her that I "don't want to share her with you."

As for additional time, I prefer that we adhere to the timeshare we agreed upon only a year ago today, which is clearly laid out in the Marital Settlement Agreement that you drafted and we both signed: 9am to 6pm on our respective birthdays. Do you want to pick them up from my home or from school on April 1st?

Thanks,
Christina

On Sun, Mar 29, 2009 at 5:34 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:

Christina:

Both kids need to eat dinner tonight and have a bath (since both kids swam this afternoon). Ethan took a nap for almost 2.5 hours today; Mia did not. Mia had 2 significant bowel movements yesterday and several small ones. She also had a significant bowel movement this afternoon.

I have not received a response to my request for additional time this week. I would appreciate your response

4/27/2009

R.App.pg.21

Mia communicated to Amy and I this weekend that you told her that I was a "cheater" and chose Amy over you. I have significant concerns with you communicating this way with the children. I think it is inappropriate (and quite reprehensible). I would ask that you refrain from this type of conduct in the future and encourage you to consider the impact on the children before doing such things.

Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Tuesday, March 31, 2009 3:32 PM
To: Mitchell Stipp
Subject: Notice

I will be keeping the kids this weekend. Do you intend to take them to school tomorrow?

4/27/2009

R.App.pg.23

Mitchell Stipp

From: Christina Calderon-Stipp [ccstipp@gmail.com]
Sent: Thursday, April 23, 2009 6:07 PM
To: Mitchell Stipp
Subject: Re:

Mitch,

As a sign of good faith, and in response to your request, I will waive my right to weekend visitation with the children the first weekend of May.

Mia has a ballet recital on Sunday, May 31, 2009 at 1:15pm. I realize that you will have the children that weekend. Will you permit her to participate? I'm not asking to take her. I would just show up for the performance. I would love for her to be able to showcase her talent for us. She is a great dancer and really enjoys her weekly ballet lessons. I just got the info today. I'll put the extra flyer I got for you in your file in her classroom tomorrow. Please let me know asap so I can let Ms T know whether to expect her or not.

Thanks,
Christina

On Thu, Apr 23, 2009 at 4:02 PM, Mitchell Stipp <mitchell.stipp@yahoo.com> wrote:

I assume you will exercise your right to have the children the first weekend of May, and I believe that the following weekend contains Mother's Day. That will leave me very little time with the children. I would like for you to waive the weekend visitation or alternatively please provide me the opportunity to have the children on Monday, May 4 at Noon to Thursday, May 7 at 6pm.



CLERK OF THE COURT

1 **OPP**

2 RADFORD J. SMITH, CHARTERED

3 RADFORD J. SMITH, ESQ.

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10 Attorneys for Defendant

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

13 CHRISTINA CALDERON STIPP,

14 Plaintiff,

15 v.

16 MITCHELL DAVID STIPP,

17 Defendant.

CASE NO.: D08-389203-Z

DEPT.: 0

FAMILY DIVISION

ORAL ARGUMENT REQUESTED

YES ☒ NO ☐

18 **OPPOSITION TO PLAINTIFF'S MOTION TO REHEAR/RECONSIDER THE HEARING OF**
19 **DECEMBER 8, 2009; AND/OR TO CLARIFY THE COURT'S RULINGS FROM THAT**
20 **HEARING; FOR PLAINTIFF'S ATTORNEY'S FEES; AND RELATED RELIEF**
21 **AND**
22 **COUNTERMOTION FOR SANCTIONS UNDER E.D.C.R. 7.60**

23 DATE OF HEARING: April 13, 2010¹

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

25 COMES NOW, Defendant MITCHELL D. STIPP, by and through his attorney Radford J. Smith,
26 Esq., and submits the following points and authorities in opposition to Plaintiff CHRISTINA
27 CALDERON-STIPP's Motion to Rehear/Reconsider the Hearing of December 8, 2009; and/or to

28 ¹ The date and time of the hearing was changed by the Court from March 18, 2010 at 10:00 am to April 13, 2010 at 11:00 am.

**Details of filing titled:
OPPOSITION TO PLAINTIFF'S MOTION TO REHEAR/RECO...
for Case Number D389203**

E-File ID:	783555
Lead File Size:	3970947 bytes
Date Filed:	2010-03-08 09:37:13.0
Case Title:	D389203
Case Name:	D389203 - New Case
Filing Title:	OPPOSITION TO PLAINTIFF'S MOTION TO REHEAR/RECONSIDER THE HEARING OF DECEMBER 8, 2009, AND/OR TO CLARIFY THE COURT'S RULINGS FROM THAT HEARING; FOR PLAINTIFF'S ATTORNEY'S FEES; AND RELATED RELIEF AND COUNTERMOTION FOR SANCTIONS UNDER E.D.C.R. 7.60
Filing Type:	EFO
Filer's Name:	Radford J. Smith, Esq.
Filer's Email:	rsmith@radfordsmith.com
Account Name:	Radford J. Smith, Chartered
Filing Code:	OPPC
Amount:	\$ 6.00
Court Fee:	\$ 0.00
Card Fee:	\$ 0.00
Comments:	Stipp - Opposition to Plaintiff's Motion to Rehear/Reconsider
Courtesy Copies:	kwulf@radfordsmith.com;mitchell.stipp@yahoo.com;donna.prokopius@yahoo.com
Firm Name:	Smith Forsberg, Attorneys at Law
Your File Number:	
Status:	Accepted - (A)
Date Accepted:	2010-03-09 08:07:37.0
Review Comments:	
Reviewer:	DA Family Division
File Stamped Copy:	D389203-783555 OPPC OPPOSITION TO PLAINTIFF S MOTION TO REHEAR RECONSIDER THE HEARING OF DECEMBER 8 2009 AND.pdf
Cover Document:	
Lead Document:	Stipp - Opp.pdf 3970947 bytes
Data Reference ID:	
Credit Card Response:	System Response: Approved Reference: VPFC4F1F749E

**Details of filing titled:
 OPPOSITION TO PLAINTIFF'S MOTION TO REHEAR/RECO...
 for Case Number D389203**

E-File ID:	783555
Lead File Size:	3970947 bytes
Date Filed:	2010-03-08 09:37:13.0
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Case Name:	D389203 - New Case
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Filing Type:	EFO
Filer's Name:	Radford J. Smith, Esq.
Filer's Email:	rsmith@radfordsmith.com
Account Name:	Radford J. Smith, Chartered
Filing Code:	OPPS
Amount:	\$ 6.00
Court Fee:	\$ 0.00
Card Fee:	\$ 0.00
Comments:	Stipp - Opposition to Plaintiff's Motion to Rehear/Reconsider
Courtesy Copies:	kwulf@radfordsmith.com;mitchell.stipp@yahoo.com;donnaoprokopius@yahoo.com
Firm Name:	Smith Forsberg, Attorneys at Law
Your File Number:	
Status:	Pending - (P)
Date Accepted:	
Review Comments:	
Reviewer:	
File Stamped Copy:	
Cover Document:	
Lead Document:	Stipp - Opp.pdf 3970947 bytes
Data Reference ID:	
Credit Card Response:	System Response: Approved Reference: VPFC4F1F749E

1 **OPP**

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

15 CHRISTINA CALDERON STIPP,

16 Plaintiff,

17 v.

18 MITCHELL DAVID STIPP,

19 Defendant.

CASE NO.: D08-389203-Z

DEPT.: O

FAMILY DIVISION

ORAL ARGUMENT REQUESTED

YES ☒ NO ☐

20
21 **OPPOSITION TO PLAINTIFF'S MOTION TO REHEAR/RECONSIDER THE HEARING OF**
22 **DECEMBER 8, 2009; AND/OR TO CLARIFY THE COURT'S RULINGS FROM THAT**
23 **HEARING; FOR PLAINTIFF'S ATTORNEY'S FEES; AND RELATED RELIEF**
24 **AND**
25 **COUNTERMOTION FOR SANCTIONS UNDER E.D.C.R. 7.60**

26 DATE OF HEARING: April 13, 2010¹

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

28 COMES NOW, Defendant MITCHELL D. STIPP, by and through his attorney Radford J. Smith,
Esq., and submits the following points and authorities in opposition to Plaintiff CHRISTINA
CALDERON-STIPP's Motion to Rehear/Reconsider the Hearing of December 8, 2009; and/or to

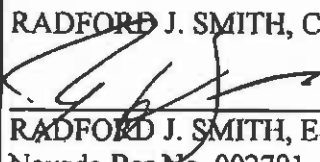
¹ The date and time of the hearing was changed by the Court from March 18, 2010 at 10:00 am to April 13, 2010 at 11:00 am.

1 Clarify the Court's Rulings from that Hearing; For Plaintiff's Attorney's Fees; and Related Relief; and
2 in support of his Countermotion for Sanctions under E.D.C.R. 7.60

3
4 This opposition is made and based upon the points and authorities attached hereto, the Affidavit
5 of Defendant MITCHELL DAVID STIPP attached hereto as Exhibit A, the pleadings and papers on file
6 in this action, and any oral argument or evidence adduced at the time of the hearing of this matter.

7 DATED this 3 day of March, 2010.

8 RADFORD J. SMITH, CHARTERED

9 
10 RADFORD J. SMITH, ESQ.
11 Nevada Bar No. 002791
12 64 N. Pecos Road, Suite 700
13 Henderson, Nevada 89074
14 (702) 990-6448
15 Attorneys for Defendant

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I.

INTRODUCTION

17 Plaintiff Christina Calderon-Stipp ("Christina") and Defendant Mitchell David Stipp
18 ("Mitchell") have two children, Mia Stipp ("Mia"), born October 19, 2004, and Ethan Stipp ("Ethan"),
19 born March 24, 2007. This Court entered the parties' Decree of Divorce on March 6, 2008 (the
20 "Decree") upon their joint petition for divorce filed in February of 2008. The Decree incorporates the
21 terms and conditions of the parties' marital settlement agreement entered into and dated as of February
22 20, 2008 ("MSA"). Under the MSA, the parties agreed to have joint physical custody of the parties'
23 minor children. From the date of the entry of the Decree in March of 2008 until December of 2008, a
24 period of approximately ten (10) months, Mitchell tried to obtain more visitation time with the children
25 without litigation. Christina refused to provide Mitchell more time and instead filed a motion to confirm
26
27
28

1 herself as the primary physical custodian on December 17, 2008, even after Mitchell made a request for
2 and this Court ordered mediation in December of 2008.

3 Mitchell vigorously opposed Christina's motion and filed a countermotion seeking additional
4 time with the children. The parties attended mediation and no resolution occurred. At the hearing of
5 February 24, 2009, this Court denied all motions, but nevertheless stated its belief that Mitchell should
6 have more time with the children. After unsuccessful negotiations, on April 27, 2009 Mitchell filed his
7 motion for reconsideration or in the alternative a motion to modify the timeshare arrangement. At the
8 hearing on Mitchell's motion held on June 4, 2009, this Court again ordered the parties to attend
9 mediation. The parties attended mediation and modified the terms of the MSA through a stipulation and
10 order signed by the parties on July 8, 2009 and entered by this Court on August 7, 2009 ("SAO").
11

12 Mitchell filed his Motion to Confirm Parties as Joint Physical Custodians and to Modify
13 Timeshare Arrangement on October 29, 2009. Christina filed her opposition and countermotion on
14 November 30, 2009. Mitchell filed his opposition and reply to Christina's opposition and countermotion
15 on December 7, 2009, and Christina filed her reply to Mitchell's opposition on December 8, 2009.² The
16 Court held a hearing on the foregoing matters on December 8, 2009. At the hearing, the Court ordered a
17 child custody assessment to be performed by Dr. John Paglini, which Christina now asks the Court to
18 reconsider and/or limit its scope.
19

20 Christina filed a Motion to Stay Discovery pending the completion of the child custody
21 evaluation on January 28, 2010. Mitchell filed an opposition on February 2, 2010. The Court held a
22 hearing on February 3, 2010 and ordered limited discovery related to the treatment records of Dr.
23 Melissa Kalodner and Dr. Joel Mishalow and the children's school records and authorized the deposition
24 only of Dr. Mishalow solely to clarify his handwritten progress notes.
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28 ² Christina filed her reply to Mitchell's opposition on the same day as the hearing but after the hearing was held. Christina served a copy of her reply on Mitchell's counsel after 5pm on December 8, 2009.

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II.

COUNTERSTATEMENT OF FACTS

Christina has emotionally abused Mia. Mia began to show signs of this trauma after the entry of the SAO. She has severe mood swings and significant anger management issues. Mia is prone to frequent emotional outbursts (or meltdowns). Mitchell believes this behavior is the result of Christina's past and continued attempts to alienate the children from Mitchell. Mitchell attached to his October 29, 2009 motion his affidavit and the affidavit of his sister, Megan Cantrell, as support for these allegations.

Mitchell has been participating in the child custody evaluation being performed by Dr. Paglini. The child custody evaluation report was initially due on or about February 25, 2010 and a status check was scheduled for March 9, 2010 (but has been re-scheduled for April 13, 2010). Christina filed her motion a little over a week before the evaluation report was initially due and after two (2) months of work performed by Dr. Paglini including psychological testing, completion of detailed family and marital histories, interviews of the parties and collateral sources, review of pleadings, correspondence, and treatment records of Mia, and visits by Dr. Paglini to the parties' residences and interviews of Mia. Mitchell has also paid Dr. Paglini \$8,000.00 to date for the work that has been performed. To the best of Mitchell's knowledge, Christina has participated in the evaluation process the entire time (including supplying information to Dr. Paglini for his consideration in the report).³

Christina has participated in discovery in connection with the child custody evaluation. Mitchell scheduled and paid Dr. Mishalow to attend a deposition on February 12, 2010 in the amount of \$1,200.00 to clarify his progress notes and has incurred significant legal expenses associated therewith for the benefit of both parties and the child custody evaluation. Christina attended Dr. Mishalow's deposition with her counsel who asked his own questions to clarify Dr. Mishalow's handwritten

³ Dr. Paglini's letter to the Court dated February 25, 2010 requesting the extension of time to complete the child custody evaluation provides that he has been receiving weekly discovery from both parties.

1 progress notes. Christina subpoenaed the records of Dr. Kalodner and the children's school records.
2 Christina even noticed the deposition of Dr. Kalodner.

3 **A. Dr. Melissa Kalodner**

4
5 When it became clear that Christina had no interest in an impartial review of Mia's issues,
6 Mitchell engaged Dr. Kalodner to evaluate Mia. Dr. Kalodner wrote Mitchell a letter which he attached
7 as Exhibit C to his opposition and reply on December 7, 2009. Attached as Exhibit B is a copy of Dr.
8 Kalodner's December 4, 2009 letter to Mitchell. This letter was not attached to Mitchell's October 29,
9 2009 motion and did not serve as the sole basis of Mitchell's allegations of emotional abuse of Mia by
10 Christina. The letter states that Mia communicated (among other items) the following during her
11 sessions with Dr. Kalodner:
12

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

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

15 (3) "Amy was married to James."

16 (4) "Momma does not like Amy."

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

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

19
20 The purpose of this letter was to confirm the circumstances surrounding Dr. Kalodner's
21 engagement (which appears to be different than Christina's version as set forth in her opposition filed on
22 November 30, 2009) and the statements made by Mia to Dr. Kalodner during the evaluation and
23 treatment process. The letter does not provide an opinion as to whether Mia has been emotionally
24 abused by Christina. While Mitchell believes that Christina has in fact emotionally abused Mia, Dr.
25 Kalodner never rendered an opinion on the matter, and Mitchell has never asserted that Dr. Kalodner
26 made any such conclusion.
27
28

1 Immediately after the December 8, 2009 hearing, Christina began harassing Dr. Kalodner. Dr.
2 Kalodner communicated to Mitchell that Christina left threatening voicemail messages at her office
3 claiming that "it was an emergency" and demanded that Dr. Kalodner immediately return her calls and
4 cease any further treatment of Mia. Dr. Kalodner also communicated to Mitchell that Christina sent at
5 least two (2) letters demanding Mia's treatment records. Christina's counsel also sent correspondence
6 demanding that Dr. Kalodner cease treatment of Mia and that Dr. Kalodner supply to Christina her
7 treatment records. As part of this correspondence, Christina's counsel references an agreement with
8 Mitchell's counsel that Dr. Kalodner would not testify in this case.⁴ Mitchell and his counsel responded
9 to these letters which are attached as Exhibit C.
10
11

12 Ultimately, Christina spoke to Dr. Kalodner on the telephone on January 2, 2010 and scheduled a
13 face-to-face meeting with Dr. Kalodner on January 8, 2010. Coincidentally, Mia had a scheduled
14 appointment with Dr. Kalodner on January 8, 2010. Dr. Kalodner informed Mitchell at Mia's session
15 that she could no longer treat Mia. Dr. Kalodner told Mitchell that Christina threatened her during their
16 meeting. According to Dr. Kalodner, Christina accused her of being unprofessional, and Dr. Kalodner
17 thought Christina would file a complaint with the medical board and/or sue her for malpractice if she did
18 not cease treating Mia. The next day Dr. Kalodner called Mitchell to inform him that Christina sent a
19 letter dated January 8, 2010 to her which completely distorted, misrepresented and/or fabricated the facts
20 or events of their telephone conversation and meeting. Christina has admitted that she provided this
21 letter to Dr. Paglini; however, Christina did not provide it to Mitchell or his counsel. Dr. Kalodner
22 provided Mitchell a copy of the letter. Essentially, Christina conducted her own private deposition of
23 Dr. Kalodner (assuming that she would not be testifying in this case) and manufactured a transcript of
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⁴ Mitchell's counsel did not make any such agreement; however, it is clear that Christina's counsel did not want Dr. Kalodner to provide testimony in this case.

1 their conversation and meeting in an attempt to unfairly influence the child custody evaluation (and now
2 is using it in the same manner in her motion with this Court).

3 Dr. Kalodner refused to write a response to Christina's letter for fear of retribution and continued
4 harassment by Christina. Mitchell informed Dr. Kalodner that he would prepare a letter to document his
5 conversations and meeting with Dr. Kalodner which effectively served as Dr. Kalodner's response to
6 Christina's letter. Attached as Exhibit D is a copy of Mitchell's January 13, 2010 letter to Dr. Kalodner.
7 This letter has been provided to Christina and Dr. Paglini. According to Mitchell, this letter confirms
8 (among other items) the following:
9

- 10 1. Dr. Kalodner admitted that she informed Christina that Mitchell prepared a draft of the letter
11 dated December 4, 2009. However, Dr. Kalodner informed Mitchell that she also told
12 Christina that she typically asks her clients who request letters to prepare the initial drafts.
- 13 2. Dr. Kalodner did not communicate to Christina that Mia has not been or is not being abused.
14 Dr. Kalodner told Mitchell that she informed Christina that she evaluated Mia for issues
15 concerning her clothing and divorce-related matters, that Mia reported to Dr. Kalodner the
16 statements identified in her December 4, 2009 letter to Mitchell, and that Dr. Kalodner did
17 not reach any conclusion whether Mia has been emotionally abused.
- 18 3. Dr. Kalodner admitted that she mistakenly informed Christina that she was unaware of the
19 fact that Dr. Mishalow was treating Mia. However, Dr. Kalodner told Mitchell that she did
20 not have her notes with her during her conversation and/or meeting with Christina. Dr.
21 Kalodner specifically informed Mitchell that after reviewing her records that she discovered
22 a note that Mitchell informed Dr. Kalodner of this fact on October 30, 2009.
- 23 4. Dr. Kalodner did not offer to write Christina a letter stating that Mia has not been abused.
24 Dr. Kalodner informed Mitchell that she offered to write a letter stating that she did not
25 conclude whether Mia has been emotionally abused.

26 Dr. Kalodner has supplied her treatment records to the parties. Dr. Paglini also has a copy of
27 these treatments records. These records make it clear that Christina has made harmful statements to Mia
28

1 about Mitchell and Amy, that Mia has been affected by these statements, and that Mia wants to spend
2 more time with Mitchell and Amy. The treatment records also refute many of the statements made by
3 Christina in her letter dated January 8, 2010 to Dr. Kalodner and support Mitchell's letter dated January
4 13, 2010 to Dr. Kalodner. Attached as Exhibit E are the treatments records of Mia provided by Dr.
5 Kalodner. The records provide (among other things) the following:
6

- 7 1. Christina insisted that Dr. Kalodner do therapy her way, which was for Dr. Kalodner to set
8 up each session and meet with Christina and Mitchell before every session, and for Christina
9 to be present in the room with Mia during the session, and then to work on parenting
10 strategies with Christina and Mitchell (without Amy) after each session. See Treatment Note
11 dated September 11, 2009 (Phone call with Christina) attached as part of Exhibit E.
12
- 13 2. Dr. Kalodner reports that Mia made comments such as "Mommy doesn't like Amy[]" and
14 "Amy was married to James." Dr. Kalodner notes that Mia stated that Christina told Mia
15 about James (who Dr. Kalodner later found out was Amy's first husband) and that Christina
16 reportedly told Mia that this is why Amy is bad. See Treatment Note dated September 11,
17 2009 attached as part of Exhibit E.
18
- 19 3. Dr. Kalodner reports that Mia made comments that Christina made to Mia. Mia told Dr.
20 Kalodner that "I want to spend more time with Dada but the judge won't let me." When Dr.
21 Kalodner asked Mia about the judge, Mia reported that Christina told her about the judge.
22 See Treatment Note dated September 19, 2009 attached as part of Exhibit E.
23
- 24 4. Mia made statements (without any prompting) such as "I want to spend more time with my
25 Dada but Mommy says we can't change the rules" and "Mommy doesn't like Amy, but I like
26 Amy[]" and "Momma says Amy is bad, but I like her." See Treatment Note dated October
27 10, 2009 attached as part of Exhibit E.
28

- 1 5. Mia is having issues related to the fact that she reports that she loves her step-mother, Amy,
2 but Christina gets mad at her for feeling that way. Mitchell asked Dr. Kalodner if she had
3 any contact with Christina which Dr. Kalodner said "no," and Mitchell informed Dr.
4 Kalodner that Christina is seeking the advice of Dr. Mishalow. See Treatment Note dated
5 October 30, 2009 attached as part of Exhibit E.
6
- 7 6. Mia stated "I want to spend more time with my Dada but Mommy says we can't change the
8 rules" and "I want to spend more time with my Dada but the judge won't let me." See
9 Treatment Note dated November 14, 2009 attached as part of Exhibit E.
10
- 11 7. Mitchell asked Dr. Kalodner to write a letter regarding the statements Mia has made. Mia
12 began the session by saying "Momma doesn't say anything bad about Dada and Amy
13 anymore." Dr. Kalodner asked how this made Mia feel and she stated "It feels great. Now I
14 can love everybody and nobody gets mad." See Treatment Note dated December 3, 2009
15 attached as part of Exhibit E.
16
- 17 8. Dr. Kalodner told Mia that she would be meeting with Christina and Mia began looking
18 anxious and asked that Dr. Kalodner not talk to her because "My mom is mean. She puts me
19 in time-out all the time." See Treatment Note dated December 31, 2009 attached as part of
20 Exhibit E.
21
- 22 9. Dr. Kalodner met with Christina and the majority of the discussion led by Christina centered
23 on legal issues between Christina and Mitchell, not Mia. Christina made it clear that she did
24 not give her consent for Dr. Kalodner to treat Mia anymore. Dr. Kalodner told Christina that
25 she would no longer treat Mia due to the "litigious nature of the case" and her inability to
26 help Mia with her issues "due to her mother's lack of consent and legal concerns." See
27 Treatment Note dated January 8, 2010 attached as part of Exhibit E.
28

1
2 Although Dr. Kalodner has ceased treating Mia and has provided her treatment records, Christina
3 has not stopped harassing and threatening Dr. Kalodner. Immediately after the hearing on February 3,
4 2010 (on Christina's own motion to stay discovery), Christina served on Dr. Kalodner subpoenas for
5 additional records and documents unrelated to Mia's treatment and scheduled her for a deposition.
6 Attached as Exhibit F are the subpoenas. Dr. Kalodner was not required to appear for a deposition
7 because the Court at the hearing limited discovery and authorized only the deposition of Dr. Mishalow
8 solely to clarify his handwritten progress notes. Mitchell's counsel communicated this information to
9 Christina's counsel on February 12, 2010 after he became aware of the notice for Dr. Kalodner's
10 deposition. Christina's counsel agreed to vacate the deposition, and Mitchell's counsel sent a letter
11 dated February 17, 2010 confirming the agreement. However, Christina's counsel reneged on the
12 agreement and refused to vacate it (although the deposition date passed) unless Dr. Kalodner provided
13 Christina discovery unrelated to Mia's treatment. Christina's counsel went so far as to threaten Dr.
14 Kalodner with a motion for contempt. Attached as Exhibit G is correspondence between Christina's
15 counsel and Dr. Kalodner's counsel, Anthony Barney, regarding Christina's subpoenas. It also appears
16 from the correspondence that Christina inappropriately investigated Dr. Kalodner to verify her
17 availability for the previously scheduled deposition based on her work schedule, attendance at a seminar
18 and claims of illness.
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23 **B. Dr. Joel Mishalow**

24 Mia was being treated by Dr. Mishalow at the request of Christina. After the December 8, 2009
25 hearing, Dr. Mishalow decided no longer to treat Mia. Dr. Mishalow has supplied Mia's treatment
26
27
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1 records to the parties.⁵ As part of the records, Mitchell received copies of the following completed by
2 Christina with respect to Mia: Symptoms Checklist, Burks' Behavior Rating Scales (Pre-school and
3 Kindergarten Edition), and Children's Problems Checklist. Copies of these questionnaires are attached
4 hereto as Exhibit H. Among the emotional problems Christina identifies Mia having are the following:
5

- 6 1. Angers Quickly (Symptoms Checklist)
- 7 2. Appears tense (3 out of 5 on Burks' Behavior Rating Scales-behavior noticed by Christina to
8 a considerable degree)
- 9 3. Appears distressed (3 out of 5 on Burks' Behavior Rating Scales-behavior noticed by
10 Christina to a considerable degree)
- 11 4. Feelings easily hurt (3 out of 5 on Burks' Behavior Rating Scales-behavior noticed by
12 Christina to a considerable degree)
- 13 5. Becomes angry quickly (5 out of 5 on Burks' Behavior Rating Scales-behavior noticed by
14 Christina to a very large degree)
- 15 6. Explodes under stress (3 out of 5 on Burks' Behavior Rating Scales-behavior noticed by
16 Christina to a considerable degree)
- 17 7. Is quickly frustrated and loses emotional control (3 out of 5 on Burks' Behavior Rating
18 Scales-behavior noticed by Christina to a considerable degree)
- 19 8. Is rebellious if disciplined (3 out of 5 on Burks' Behavior Rating Scales-behavior noticed by
20 Christina to a considerable degree)
- 21 9. Frequently seems anxious or tense (Children's Problems Checklist—Christina circled this as
22 most important)
- 23
- 24
- 25
- 26
- 27

28 ⁵ These records included Mitchell's October 29, 2009 motion which Christina provided to Dr. Mishalow in violation of the Court's order sealing this case. Dr. Mishalow confirmed in his deposition held on February 12, 2010 that Christina provided the motion to him.

1 10. Is easily upset (Children's Problems Checklist—Christina circled this as most important)

2 11. Frequently argues or disagrees (Children's Problems Checklist)

3 12. Is disobedient (Children's Problems Checklist)

4 13. Is stubborn (Children's Problems Checklist)

5 14. Is resentful (Children's Problems Checklist)

6 15. Has a bad temper (Children's Problems Checklist—Christina circled this as most important)

7
8 These problems are consistent with the emotional problems that Mitchell has described in his October
9 29, 2009 motion, which Christina clearly recognize exist, and Mitchell attributes to emotional abuse by
10 Christina.
11

12 **III.**

13 **LEGAL STANDARD**

14
15 Nevada district courts possess the inherent authority to clarify or to reconsider the scope of
16 previously issued orders unless and until the order is appealed. *Gibbs v. Giles*, 96 Nev. 243, 245, 607
17 P.2d 118, 119-20 (Nev. 1980). This authority is further established in this district by EDCR 2.24, which
18 allows for reconsideration upon leave of the court. The Nevada Supreme Court has held that motions
19 for reconsideration are appropriate when "substantially different evidence is subsequently introduced or
20 the decision is clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nev. v. Jolley, Urga &*
21 *Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (Nev. 1997).
22

23 Eighth Judicial Court Rule 7.60(b)(1) and (3) provide that:
24

25 (b) The court may, after notice and an opportunity to be heard, impose upon an attorney or a
26 party any and all sanctions which may, under the facts of the case, be reasonable, including the
27 imposition of fines, costs or attorney's fees when an attorney or a party without just cause:
28

1 (1) Presents to the court a motion or an opposition to a motion which is obviously
2 frivolous, unnecessary or unwarranted.

3 ...

4
5 (3) So multiplies the proceedings in a case as to increase costs unreasonably and
6 vexatiously.
7

8 **IV.**

9 **ARGUMENT**

10
11 **1. Christina's Letter to Dr. Kalodner dated January 8, 2010 does not Constitute**
12 **Substantially Different Evidence to support Christina's Motion for Reconsideration on**
13 **the Court's order for a Child Custody Evaluation**

14 Christina claims in her motion that the only evidence that exists of any emotional abuse of Mia
15 by Christina is Mitchell's allegations. Mitchell attaches to his October 29, 2009 motion his affidavit and
16 the affidavits of Amy and Megan Cantrell, his sister, in support of his motion. Mitchell did not attach to
17 his motion Dr. Kalodner's letter dated December 4, 2009. Christina argues that the Court only ordered
18 the child custody evaluation because of Dr. Kalodner's letter dated December 4, 2009. The Court's
19 Order for the December 8, 2009 hearing makes it clear that the child custody evaluation was ordered
20 "[b]ased on the allegations set forth in the [m]otions and [c]ountermotions filed" in the case.
21

22
23 The purpose of Dr. Kalodner's letter dated December 4, 2009 was to confirm the circumstances
24 surrounding Dr. Kalodner's engagement and the statements made by Mia to Dr. Kalodner during the
25 evaluation and treatment process. Christina's letter to Dr. Kalodner dated January 8, 2010 does not
26 mean that Dr. Kalodner has "repudiated that letter" in any way. In fact, the opposite is true. Dr.
27 Kalodner's treatment records clearly and specifically contradict Christina's letter. These treatment
28 records confirm the truth and accuracy of Dr. Kalodner's letter to Mitchell dated December 4, 2009 and

1 his letter to Dr. Kalodner dated January 13, 2010 responding to Christina's letter. Mitchell expects that
2 Dr. Paglini will interview Dr. Kalodner (or has already done so) as part of the evaluation. Both parties
3 have authorized Dr. Paglini to interview Dr. Kalodner and have signed releases for him to obtain Dr.
4 Kalodner's records.
5

6 Christina also alleged in her November 30, 2009 counter motion that Mitchell was unfit. Given
7 this allegation, Mitchell believes that it was additionally necessary for this Court to order the child
8 custody evaluation. Mitchell did not ask the Court to "take his word for it" that he is a fit parent.
9 Mitchell requested that the Court order the assessment. Now, Christina expects the Court to vacate its
10 order without any other reason simply because "she does not believe an outsourced custody evaluation .
11 . . is warranted[]" despite all of the evidence to the contrary. Ironically, she expects the Court to "take
12 her word for it" that Mia has not been emotionally abused. The fact that Christina has asked the Court
13 to vacate its order for a child custody evaluation seriously undercuts her position that Mitchell is unfit.
14 Christina must not believe that Mitchell is unfit at all if she does not want Dr. Paglini to complete the
15 evaluation (even to examine her allegations).
16
17

18 At the February 3, 2010 hearing (on Christina's own motion to stay discovery), Christina's
19 counsel argued that the Court should not permit any discovery during the pendency of the child custody
20 evaluation. Christina's counsel stated at the hearing that Dr. Paglini is an expert and is more than
21 capable of completing the evaluation without discovery from the parties. No objection was raised at all
22 about completing the evaluation or limiting its scope and the issue was certainly ripe given the matter
23 before the Court. It would seem that Christina's primary argument for staying discovery would have
24 been that discovery should not occur because she intended to file a motion for reconsideration. At the
25 time, Christina believed that Dr. Kalodner would not testify in the case. She was also under the
26 impression that Mitchell did not have a copy of her letter to Dr. Kalodner dated January 8, 2010 and that
27
28

1 Mitchell was not aware that she provided it to Dr. Paglini. Christina's motion to stay discovery was
2 tactical with the clear goal to manipulate the process by controlling the information available to this
3 Court and Dr. Paglini. Apparently now (and just a few short weeks after the February 3, 2010 hearing),
4 Christina has changed her mind about Dr. Paglini. She no longer believes he is capable of performing a
5 proper evaluation and wants this Court to reconsider its order.
6

7 Christina has not stopped harassing and threatening Dr. Kalodner. Christina's treatment of Dr.
8 Kalodner is consistent with her behavior toward Mitchell and Amy. The record before the Court of
9 Christina's behavior is clear. She has consistently harassed Mitchell and Amy. The emails Mitchell
10 attached to his October 29, 2009 motion clearly demonstrate Christina's anger and hostility toward
11 Mitchell and Amy. This same anger and hostility has been directed at Dr. Kalodner. It clearly reflects
12 emotional instability on the part of Christina and a level of obsession that likely requires treatment.
13 Christina is absolutely fixated on winning this case at all costs (including manufacturing a letter that she
14 submits to this Court supported by her affidavit attesting to its truth and accuracy).
15
16

17 After reviewing Mitchell's letter to Dr. Kalodner dated January 13, 2010 and Dr. Kalodner's
18 treatment notes, it should be clear to the Court that Christina's letter is manufactured. Such "evidence"
19 cannot serve as the basis for the Court to reconsider its prior order. Accordingly, Christina's motion for
20 reconsideration of the Court's order for a child custody evaluation should be denied.
21
22

23 **2. The Court's order for a Child Custody Evaluation is not clearly erroneous and should**
24 **be Completed as Ordered and not Limited only to Consideration by Dr. Paglini of**
25 **Circumstances after the Court's entry of the SAO on August 7, 2009.**

26 Christina argues in her motion that her opposition and countermotion filed on November 30,
27 2009 requested the Court "to leave the recently stipulated custody arrangement intact." Christina's
28 demanded relief was exactly the opposite. Christina specifically moved the Court to set aside the SAO

1 because of Mitchell's alleged fraud upon the Court related to his May 12, 2008 arrest for driving under
2 the influence of alcohol. It appears that Christina has abandoned her requested relief (or intentionally
3 mischaracterizes it) because she believes the SAO must now remain in place in order to make the
4 arguments in her motion. If Christina has asked the Court to vacate the SAO, she cannot very well
5 argue that no circumstances should be considered by the Court or Dr. Paglini before its entry.
6

7 Christina's motion assumes the Court has already made its determination that she has primary
8 physical custody of the children under Rivero v. Rivero, 216 P.3d 213 (2009). As such, Christina relies
9 on the case of McMonigle v. McMonigle, 110 Nev. 1407, 887 P.2d 742 (1994), for the proposition that
10 Mitchell must show in order to change custody that the circumstances have materially changed "since
11 the most recent custodial order," and events that took place before that proceeding (i.e., August 7, 2009,
12 the date of entry of the SAO) are inadmissible to establish a change of circumstances. Mitchell has
13 never alleged in any pleadings or at any hearing prior to his October 29, 2009 motion that Christina has
14 emotionally abused Mia. However, Mitchell admits that he has raised the issue of parental alienation
15 with the Court but only in his opposition and response filed on June 3, 2009 to Christina's motion to
16 continue the hearing of June 4, 2009. In that opposition, Mitchell states the following:
17
18

19 Such an assessment is warranted in this case. As set forth in the affidavits
20 of Mitchell and his wife Amy Stipp attached hereto, Christina is doing everything
21 in her power to alienate the parties' daughter Mia from Mitchell. By Mia's
22 statements to Mitchell and Amy, it is obvious that Christina has made false
23 allegations to Mia to harm her view of Mitchell and Amy.

24 Specifically, Christina's behavior since the last hearing only continues to
25 get worse as she used the children as leverage to extract additional child support
26 through tuition payments by withdrawing them from school and is now using the
27 children to harass Mitchell and his wife, Amy. Since the hearing date on
28 February 24, 2009, Mitchell and Amy have had to field questions from his older
child, Mia (age 4), about why "dada won't pay for school,"^[6] why "dada is a

28 "[6] Christina withdrew the children from school after the last hearing on February 24, 2009. Christina re-enrolled the children after Mitchell paid the tuition due for the remainder of the year".

1 cheater," why "dada chose Amy and left mommy," why "mommy hates Amy,"
2 and why "dada stole all of momma's money." These are not the types of
3 questions Mitchell should be facing from his daughter (who at age 4 did not
4 formulate them by herself). Further, Christina has told Mia that "dada is a very
5 bad person" on several occasions (even as recently as May 31, 2009).^[7] For these
6 reasons, whether or not the Court grants Christina's request to continue the
7 hearing, this Court should order an assessment of the parent/child issues by a
8 qualified psychologist.

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

17 Mitchell contends that the question of what circumstances have materially changed "since the
18 most recent custodial order" requires more than comparing the dates of alleged incidents with the date of
19 a court order. The "prior in time" prohibition in McMonigle does not necessarily encompass items that
20 have occurred prior to the last custody hearing (i.e., statements made to Mia by Christina or clothing or
21

22

23 "[7] On May 31, 2009, Mitchell's sister, Megan, returned the children at 6pm to Christina. Megan informed Mitchell upon
24 her return to his home that Christina wanted her to drive back that night to deliver the earrings Mitchell replaced in Mia's
25 ears over the weekend. Christina sent an email, instructed Mia to call to demand the earrings several times, and even
26 attempted to go to Mitchell's house to have Mia ask for them. Mitchell informed Christina that he would deliver them the
27 next day when he visited the children at school. Mitchell also spent several minutes on the phone consoling Mia who was
28 upset by Christina's demand for the immediate return of the earrings. Christina refused to accept Mitchell's offer. All in
front of Mia while on the phone with Mitchell, Christina threatened to call the police, she instructed Mia to ask for their
immediate return, and when Mitchell did not comply, she drove to Mitchell's house with Mia and Christina's mother. They
were turned away at the gate because Mitchell was not at home. While on the phone, Christina told Mia that "dada is a very
bad person" and Christina's mother ranted and raved that Mitchell was a "son of a bitch" and that Christina was going to sue
him for \$20 million. Mitchell returned the earrings the following day while visiting Mia at school. Mitchell placed the
earrings in Mia's ears. She was not wearing the earrings Mitchell purchased for her; she informed Mitchell that Christina
removed them and that she lost them."

1 emotional problems experienced by Mia), but only matters that were actually raised in that hearing. In
2 other words, even circumstances that have occurred earlier in time than entry of the SAO but have never
3 been made the subject of a court decision may justify a change in custody or visitation. See Castle v.
4 Simmons, 120 Nev. 98, 86 P.3d 1042 (2004). Accordingly, even if the Court accepts the manner in
5 which Christina frames the issue as parental alienation, the matter was never the subject of a decision by
6 the Court and is not barred from the Court's consideration or Dr. Paglini.
7

8 Christina's communications to Mia about Mitchell and Amy may cause parental alienation.
9 Mitchell raised this possibility in his June 3, 2009 opposition and response as discussed above. Rather
10 than resulting in parental alienation, though, Christina's bad acts actually caused Mia to suffer emotional
11 trauma. At Mia's very young age (now 5), she could not reconcile these harmful communications from
12 Christina with her own feelings. Mitchell believes that Christina's harmful communications rise to the
13 level of emotional abuse because they were intentional acts by Christina that directly caused Mia to
14 suffer emotionally. The problem for Christina is that Mia did not want to hate Mitchell or Amy, and she
15 continues to love and wants to spend more time with them. Dr. Kalodner's letter dated December 4,
16 2009 to Mitchell and her treatment records make this point very clearly.
17

18 Mia began to show signs of this emotional abuse after the entry of the SAO. She has severe
19 mood swings and significant anger management issues. Mia is prone to frequent emotional outbursts (or
20 meltdowns). Christina even admits in her motion that Mia's "negative behaviors resurfaced" at the
21 beginning of the 2009-2010 school year (which was after entry of the SAO although she does not
22 explain why they did) (emphasis added).⁸ Christina further recognizes Mia's emotional problems in the
23 questionnaires she completed and during her sessions with Dr. Mishalow as confirmed by his deposition.
24 Mitchell also raised these issues both with Dr. Kalodner and Dr. Mishalow. However, Mitchell never
25
26
27

28 ⁸ Christina indicates in her November 30, 2009 countermotion and opposition that Mia's prior "behavioral problems" were caused by the divorce of the parties (which she claims is Mitchell's fault) and Mitchell's remarriage to Amy.

1 raised the existence of any emotional problems by Mia in any pleadings prior to his October 29, 2009
2 motion.

3 Christina cites to Castle in her motion to support her position that the Court and Dr. Paglini
4 should consider Mitchell's May 12, 2008 arrest for driving under the influence of alcohol. Interestingly
5 enough, though, Christina raised the issue of Mitchell's alleged alcohol abuse in her December 17, 2008
6 motion which was denied at the hearing by the Court on February 24, 2009. Apparently, though,
7 Christina's legal theory only works one way (i.e., for her benefit). However, Mitchell is not asking the
8 Court to limit the scope of the evaluation to exclude matters or terminate it simply because the issue of
9 Mitchell's prior alcohol use is being examined in the evaluation process.
10
11

12 The child custody evaluation must be completed as ordered and not limited in scope. Although
13 the parties agreed in the MSA that they shall have joint physical custody of the parties' minor children,
14 the law has changed and the status of the parties' arrangement must be reviewed by the Court under
15 Rivero in light of Mitchell's October 29, 2009 motion to confirm the parties as joint physical custodians
16 and Christina's November 30, 2009 countermotion to set aside the SAO. Clearly, in the event that the
17 SAO is set aside by this Court, the parties would not have joint physical custody under the previous
18 timeshare based on the new standards of Rivero. It is also possible that the Court could deny both
19 parties' motions the consequence of which may be that Christina will be awarded primary physical
20 custody of the children under Rivero (which is inconsistent with the parties' stated intentions under the
21 MSA). Given the prospect of a change of custody in either of these scenarios, it is necessary to
22 complete the evaluation and not limits its scope.
23
24

25 The Court's decision to order a child custody evaluation is not clearly erroneous. The Court has
26 broad discretion to order an evaluation based on the allegations of the parties. The issue of emotional
27 abuse has never been raised by Mitchell prior to his October 29, 2009 motion. Mitchell raised the issue
28

1 of parental alienation in his June 3, 2009 opposition and response which was never adjudicated by the
2 Court or settled by the parties. Accordingly, the Court should deny Christina's motion to reconsider the
3 order for a child custody evaluation (and her alternative motion to limit its scope).

4
5 **3. The Court's order authorizing the Parties to select their own Therapists for Mia is not**
6 **clearly erroneous.**

7 The Court is not prohibited by any controlling authority (case, statute or rule) from ordering that
8 the parties may select their own therapists for the children if they cannot agree on one. Christina admits
9 in her motion that the American Psychological Association ("APA") does not prohibit multiple
10 therapists from treating a single patient. She cites to Section 10.04 of the APA's code of professional
11 conduct which provides certain guidelines to psychologists who are asked to treat patients being treated
12 by other psychologists. While Christina is correct, Mia may not be of sufficient age to discuss her
13 welfare and treatment issues with the therapist, these issues can be (and should be) discussed by the
14 parties for Mia's benefit. Section 10.04 of the APA's code of professional conduct expressly provides
15 that such discussions can alternatively occur with "another legally authorized person on behalf of the
16 client/patient[.]" Furthermore, the Court's order does not eliminate the requirement of the parties to
17 communicate medical information between them as required by the MSA. Therefore, Mitchell does not
18 understand the basis of Christina's objections as set forth in her motion.

19
20
21 At the request of Christina, Mia was being treated by Dr. Mishalow (to which Mitchell
22 consented), but Christina undermined that process by insisting on controlling every aspect of the
23 treatment (including taking steps to prevent the sharing of information). Mitchell was effectively
24 excluded from meaningful participation in Dr. Mishalow's treatment. Per Christina's request and after
25 Christina provided Dr. Mishalow a copy of Mitchell's October 29, 2009 motion, Dr. Mishalow refused
26 to provide Mitchell any information regarding Mia's treatment with Christina. Furthermore, Mitchell
27 was not able to schedule regular appointments during his timeshare arrangement and Christina would
28

1 not accommodate him. Ultimately, Mitchell informed Dr. Mishalow that it was not effective for him to
2 participate in treatment under these circumstances, but he made it very clear that Dr. Mishalow could
3 continue to treat Mia at the request of Christina.
4

5 Given the continuous and unresolved issues with Christina's control of the evaluation process
6 and Mia's treatment, Mitchell believed Mia's clothing issues would remain undiagnosed and untreated.
7 As a result, Mitchell decided to act in the best interest of Mia. Mitchell engaged Dr. Kalodner to
8 evaluate Mia's clothing issues and assist him and his wife Amy with Mia's emotional issues. Dr.
9 Kalodner evaluated Mia alone (to which Mia did not object) over the course of several weeks and
10 concluded that Mia's clothing issues were not caused by an obsessive compulsive disorder (as both
11 Mitchell and Christina previously believed). Dr. Kalodner also consulted with Dr. Julie Beasley and
12 concluded that Mia's clothing issues were likely the result of a sensory processing disorder. Dr.
13 Kalodner referred Mitchell to Dr. Tania Stegen-Hanson, a pediatric occupational therapist, who Mitchell
14 engaged to evaluate Mia's clothing issues. Dr. Stegen-Hanson concluded that Mia suffers from a mild
15 sensory processing disorder. Mitchell provided the evaluation report to Christina and invited Christina
16 to meet with Dr. Stegen-Hanson to discuss the evaluation and treatment. Christina now accepts that
17 Mia's clothing issues are caused by a sensory processing disorder. Both of the parties have been
18 regularly attending Mia's weekly occupational therapy sessions. Clearly, the engagement of multiple
19 therapists benefited Mia in this case as the cause of Mia's clothing issues was properly diagnosed and
20 she is receiving therapy for this issue.
21
22
23

24 At the present time, Mia is not being treated by a psychologist for her emotional problems
25 (despite Christina's paranoia that Mitchell may be secretly having Mia treated by "yet another hired gun
26 psychologist"). The reference in Christina's motion is presumably to Dr. Kalodner who evaluated Mia's
27 clothing issues and made the referral to Dr. Stegen-Hanson without which Mia would not have been
28

1 properly diagnosed and treated. Unfortunately, Dr. Kalodner decided no longer treat Mia for her
2 emotional problems due to the "litigious nature of the case" and her inability to help Mia with her issues
3 "due to her mother's lack of consent and legal concerns." Unfortunately, the Court's order did not
4 prevent Christina from chasing Dr. Kalodner away. The practical reality is that no psychologist will
5 treat Mia if Christina threatens or harasses the person as she has done with Dr. Kalodner (even if
6 Mitchell has an order from the Court permitting him to engage a therapist without Christina's
7 agreement).

8
9 The Court's order to allow the parties to select their own therapists for the children is not clearly
10 erroneous and should not be reconsidered. Alternatively, Christina requests that the Court select a
11 therapist for Mia. This is unnecessary because Christina can select a therapist for Mia without the
12 Court's involvement (and even without Mitchell's agreement). Mitchell is not preventing Christina
13 from engaging a therapist for Mia. However, Mitchell has communicated to Christina that he would
14 prefer to consider the recommendations provided by Dr. Paglini in the child custody evaluation before
15 having Mia treated by another psychologist (and likely put through the same ringer as Dr. Kalodner).

16
17
18 **4. The Relocation Provision included as part of the Mandatory Provisions in the Order**
19 **from the hearing on December 8, 2009 is the same as in the Decree.**

20 The parties did not submit competing orders from the hearing on December 8, 2009. Mitchell's
21 counsel provided to Christina's counsel the form of the order which he did not timely review. The order
22 tracks the language of the Court's minutes and transcript of the hearing. While Christina's counsel
23 objected to the form of the order, he did not specify any changes and never provided to Mitchell's
24 counsel his alternative version of the order. Mitchell's counsel includes "mandatory provisions" as a
25 matter of practice in all orders that he prepares. The "relocation provision" included in the order from
26 the hearing on December 8, 2009 is the same as in the Decree. Christina has not indicated how it is
27
28

1 different in the MSA (although she alleges an ulterior motive by Mitchell to modify the MSA related to
2 primary vs. joint physical custody).

3 Mitchell acknowledges that an error was made in the order: the order states that the "State of
4 Arizona in the United States of America is the habitual residence of the parties' children." Clearly, this
5 is a typographical error that should be corrected. The State of Nevada in the United States of America is
6 the habitual residence of the parties' children. Mitchell apologizes to the Court and Christina for this
7 error and will enter into a stipulation and order with Christina only to correct this mistake.
8

9
10 **5. Christina is not Entitled to an Award for Attorney's Fees for bringing a frivolous
11 motion; however, Christina should be sanctioned under E.D.C.R. 7.60.**

12 Christina's motion is completely frivolous. The timing and basis are highly suspicious.
13 Christina filed her motion a little over a week before the evaluation report was initially due and after two
14 (2) months of work performed by Dr. Paglini. To the best of Mitchell's knowledge, Christina has
15 participated in the evaluation process the entire time (including supplying information to Dr. Paglini for
16 his consideration in the report) and conducting discovery. The status check for the child custody
17 evaluation was scheduled for March 9, 2010 (but has been moved to April 13, 2010). The primary
18 support for her motion is a letter she manufactured to Dr. Kalodner dated January 8, 2010. Any
19 objections to performing the child custody evaluation could have been raised in Christina's motion to
20 stay discovery which was heard on an order shortening time by the Court on February 3, 2010. Under
21 these circumstances, there is absolutely no basis in law or under the MSA to award attorneys' fees to
22 Christina. Instead, the Court should sanction Christina for filing this motion under E.D.C.R. 7.60(b)(1)
23 and (3).
24
25

26 ...

27 ...

28 ...

V.

CONCLUSION

Based upon the foregoing, the Court should enter the following Orders:

1. Deny in its entirety Plaintiff's Motion to Rehear/Reconsider the Hearing of December 8, 2009; and/or to Clarify the Court's Rulings from that Hearing; For Plaintiff's Attorney's Fees; and Related Relief.

2. Grant Mitchell's Countermotion for Sanctions under E.D.C.R. 7.60.

Dated this 3 day of March, 2010.

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.

Nevada Bar No. 002791

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Attorneys for Defendant

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CERTIFICATE OF SERVICE

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

I served the foregoing document described as "Opposition to Motion to Rehear/Reconsider the Hearing of December 8, 2009; and/or to Clarify the Court's Rulings from that Hearing; For Plaintiff's Attorney's Fees; and Related Relief, and Countermotion for Sanctions under E.D.C.R. 7.60" on this 8th day of March, 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 3rd Street
Las Vegas, Nevada 89101
Facsimile: 702-951-8022

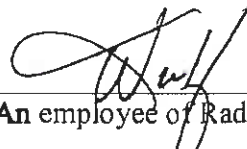

An employee of Radford J. Smith, Chartered

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:

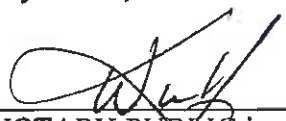
1. I am the Defendant in the case of *Stipp v. Stipp*, case number D-08-389203-Z in the Eighth Judicial District Court, State of Nevada. I submit this affidavit in support of my Opposition to Plaintiff CHRISTINA CALDERON-STIPP's Motion to Rehear/Reconsider the Hearing of December 8, 2009; and/or to Clarify the Court's Rulings from that Hearing; For Plaintiff's Attorney's Fees; and Related Relief; and in support of my Countermotion for Sanctions under E.D.C.R. 7.60 (the "Opposition and Countermotion").

2. I have personal knowledge of the facts contained in the Opposition and Countermotion, 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 8th day March, 2010.


NOTARY PUBLIC in and for
the State of Nevada

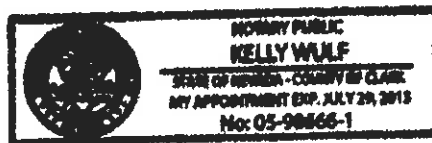


EXHIBIT B

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

Clinical Child Psychologist and Registered Play Therapist – Supervisor

2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052

Office (702) 310-8787 – Fax (702) 310-8798

December 4, 2009

Sent Via Facsimile, (702) 304-0275

Mitchell Stipp

2055 Alcova Ridge Drive

Las Vegas, Nevada 89135

RE. Mia Stipp

Dear Mr. Stipp,

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

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

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

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

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

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

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

Sincerely,



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

EXHIBIT C

Via Facsimile 702-951-8022

December 17, 2009

Donn W. Prokopius
Law Offices of Donn W. Prokopius, Chtd.
931 South 3rd Street
Las Vegas, Nevada 89101

Re: Stipp v. Stipp
Case No. D-08-389203-Z

Dear Donn:

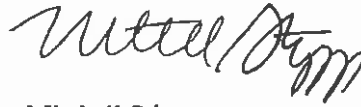
I received a copy of your letter dated December 17, 2009 to Radford Smith. I disagree with your allegations and factual statements. Attached for your review are minutes from the hearing on December 8, 2009. Order #3 makes it clear that I can continue to obtain treatment from Dr. Melissa Kalodner for my daughter, Mia Stipp, despite your client's objections. Furthermore, I have not obtained treatment for Mia from Dr. Tania Stegen-Hanson. Dr. Stegen-Hanson evaluated Mia and prepared a report. No treatment has begun. In fact, I supplied a copy of the evaluation via email on December 13, 2009 to your client and advised your client to contact the therapist to discuss it and the proposed treatment plan. Attached for your review is the email I sent to your client and her response. At this time, I am unaware of whether your client has met with Dr. Stegen-Hanson or is interested in Mia's treatment.

I have spoken to Dr. Kalodner regarding your client's request for records. I understand she is in the process of supplying them to her. I do not have any records to provide your client.

Please be advised that Dr. Joel Mishalow is also providing therapy to Mia at the request of your client. Neither Dr. Mishalow nor your client provides me notice of any appointments or information regarding Mia's therapy. In fact, Dr. Mishalow has informed me that all such information is being kept confidential because of the litigation. While I am absolutely entitled to such information, I have not demanded it at this time. For the record, I am not objecting to Mia's continued treatment by Dr. Mishalow so long as Dr. Kalodner can continue to provide treatment to Mia.

If you have any questions, please do not hesitate to contact me or Radford.

Best Regards,

A handwritten signature in black ink, appearing to read "Mitchell Stipp". The signature is fluid and cursive, with the first name "Mitchell" written in a larger, more prominent script than the last name "Stipp".

Mitchell Stipp

702-378-1907 (telephone)

Encls.

cc: Radford Smith

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Joint Petition

COURT MINUTES

December 08, 2009

D-08-389203-Z

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

December 08, 2009 10:00 AM

All Pending Motions

HEARD BY: Sullivan, Frank P.

COURTROOM: Courtroom 05

COURT CLERK: Lori Parr

PARTIES:

Christina Stipp, Petitioner, Pro Se
present

Ethan Stipp, Subject Minor, not
present

Mia Stipp, Subject Minor, not
present

Mitchell Stipp, Petitioner, Radford Smith, Attorney,
present present

JOURNAL ENTRIES

- MITCHELL STEP'S MOTION TO CONFIRM PARTIES AS JOINT PHYSICAL CUSTODIANS AND TO MODIFY TIMESHARE ARRANGEMENT...CHRISTINA STIPP'S OPPOSITION AND COUNTERMOTION TO SET ASIDE AUGUST 7, 2009 STIPULATION AND ORDER, GRANT DISCOVERY, PARTITION UNDISCLOSED MARITAL ASSETS AND SANCTIONS

Petitioner's sworn and testified.

Following argument, COURT ORDERED as follows:

1) Parties REFERRED to Dr. Paglini for an Outsource Custody Evaluation with recommendations. A

PRINT DATE:	12/14/2009	Page 1 of 2	Minutes Date:	December 08, 2009
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return hearing is set. Dad shall pay for the evaluation, and if the report comes back negative toward Mom, she will be required to reimburse Dad the amount paid.

- 2) An Evidentiary Hearing is set with regard to the request to change or modify custody, which will be based upon the evaluation.
- 3) Court advised the parties need to work together in obtaining a therapist for Mia. If they cannot work together, they may obtain their own therapist.
- 4) Dad's request for additional visitation is DENIED.
- 5) All prior Orders REMAIN in FULL FORCE and EFFECT.
- 6) Each party shall bear their own ATTORNEYS FEES.
- 7) Court will review the Countermotion and Reply regarding the partition of omitted assets and will issue a separate Order regarding this issue.

Atty Smith shall prepare the Order; Mom shall sign off.

3/9/10 11:00 AM RETURN: OUTSOURCE CUSTODY EVALUATION (DR. PAGLINI)

5/6/10 2:00 PM EVIDENTIARY HEARING RE: CHANGE OF CUSTODY

INTERIM CONDITIONS:

FUTURE HEARINGS:

March 09, 2010 11:00 AM Return Hearing
Courtroom 05
Sullivan, Frank P.

May 06, 2010 2:00 PM Evidentiary Hearing
Courtroom 05
Sullivan, Frank P.

Mitchell Stipp

From: Christina Stipp [ccstipp@gmail.com]
Sent: Tuesday, December 15, 2009 10:41 AM
To: Mitchell Stipp
Subject: Re: Achievement Therapy Center

I will contact her immediately.

Sent from my iPhone

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

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

<Achievement Therapy Evaluation-Mia Stipp.pdf>

RADFORD J. SMITH, Esq.
RSMITH@RADFORDSMITH.COM

RADFORD J. SMITH, CHARTERED

A Professional Corporation
64 NORTH PEGAS ROAD, SUITE 700
HENDERSON, NEVADA 89074

TELEPHONE: (702) 890-6448
FACSIMILE: (702) 890-6458

December 18, 2009

VIA FACSMILE

Donn Prokopius, Esq.

Re: Stipp v. Stipp

Dear Donn:

Thank you for your letter of December 17, 2009. I saw that Mitch Stipp responded to the allegations contained in the letter. Mitch is a licensed attorney, and you are free to communicate to and with him directly outside of my presence.

I would note in your letter that you referenced E.D.C.R. 5.12 and NRCP 35, and suggest that Dr. Kolodner's letter was produced in violation of those rules. First, contrary to your statement, Dr. Kolodner's letter did not contain opinion – she simply stated the context of her visits with Mia, and restated some of Mia's statements made to her. Dr. Kolodner was not consulted to provide testimony in this case (and therefore her consultation does not fall within E.D.C.R. 5.12) nor was she hired to do a medical examination under NRCP 35. She was simply hired to provide an independent view of the child's clothing issue without manipulation by Christina. Mitch has provided her treatment notes to Christina, and has no issue with Christina having that information. Please let me know whether I need to do a formal request to get Dr. Mishalow's records.

I have attached a draft order arising from the hearing of December 8, 2009. I think you will find that the order follows the minutes issued by the court. If you have any suggested changes, please let me know. If the order is acceptable as written, I will send an original for signature. If I have not heard from you by Wednesday of next week, I will submit it to the court without your signature.

Sincerely,

RADFORD J. SMITH, CHARTERED



Radford J. Smith, Esq.

RJS:

cc: Mitch Stipp

Enc:

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.: 0

FAMILY DIVISION

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

23 DATE OF HEARING: December 08, 2009

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

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

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:

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

33 (b) Upon motion of the parties, the Court may order the parent to post
34 a bond if the Court determines that the parents pose an imminent risk of
35 wrongfully removing or concealing the child outside the country of
36 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 (a) The welfare division of the department of human resources, its
20 designated representative or the district attorney, if the welfare division or
21 the district attorney has jurisdiction in the case; or,

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

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

9 IT IS SO ORDERED this _____ day of _____, 2009.
10

11 _____
DISTRICT COURT JUDGE

12 Submitted by:
13 RADFORD J. SMITH, CHARTERED
14

Approved as to form and content:

15
16 _____
RADFORD J. SMITH, ESQ.
17 Nevada State Bar No. 002791
64 N. Pecos Road - Suite 700
18 Henderson, Nevada 89074
(702) 990-6448
19 Attorney for Plaintiff
20

21 _____
DONN W. PROKOPIUS, Esq.
22 Nevada State Bar No. 006460
931 South Third Street
23 Las Vegas, Nevada 89101
(702) 474-0500
24 Attorney for Defendant
25
26
27
28

RADFORD J. SMITH, ESQ.
RSMITH@RADFORDSMITH.COM

RADFORD J. SMITH, CHARTERED

A Professional Corporation
84 NORTH PECOS ROAD, SUITE 700
HENDERSON, NEVADA 89074

TELEPHONE: (702) 890-8448
FACSIMILE: (702) 890-8458

December 31, 2009

VIA FACSMILE

Donn Prokopius, Esq.

Re: Stipp v. Stipp

Dear Donn:

I received your letter of December 28, 2009 faxed to my office on December 30, 2009. I will go through the points as you raise them in the letter.

1. I thought from Mitch's letter that Dr. Kolodner had provided her notes. I am sure she will, and I think your client's sending her threatening letters and repeatedly calling her is unnecessary (and typical). My understanding is that Dr. Kolodner called your office on the 29th, and left a message with Christina the same date offering to meet her at any time. None of this suggests to me that Dr. Kolodner is withholding records or information.
2. In regard to Dr. Mishalow's records, I will have Mitch ask for them from Mishalow. Dr. Paglini will likely review both Kolodner's and Mishalow's notes (the parties have already signed releases allowing Dr. Paglini to get their records).
3. The order is two pages of text and directly follows the minutes. I didn't think you would need more than three days. You could have told me your proposed changes, but you haven't, so I have submitted the order. In any event, I don't understand what changes would be made since the order follows the minutes.
4. Mitch saw Kolodner's treatment of Mia for a limited issue necessary. I don't understand how you can presume that Dr. Kolodner was not acting in Mia's best interest when you don't have any information regarding Mia's treatment (neither of us have any notes from either Kolodner or Mishalow).
5. I understand from your letter that Christina met with Dr. Stegen-Hanson on the 29th. Mitch has not heard from Christina as of 5:30 on the 30th about that meeting. A bit ironic don't you think?
6. I have talked to Mitch about Christina's suggestion on a new counselor. At this point, Mitch does not feel a new counselor would be in Mia's best interest. I would suggest that we allow Dr. Paglini to complete his evaluation, and use his findings as a basis for determining future care for Mia.

Sincerely,

RADFORD J. SMITH, CHARTERED

Radford J. Smith, Esq.

RJS:

cc: Mitch Stipp

EXHIBIT D

Via Facsimile

January 13, 2010

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

Re: Mia Stipp

Dear Dr. Kalodner:

This letter is to confirm our conversations on Friday, January 8, 2010, Saturday, January 9, 2010, Sunday, January 10, 2010, Monday, January 11, 2010 and Wednesday, January 13, 2010 regarding your meeting on Friday, January 8, 2010 with Christina Stipp ("Christina") and her letter to you dated January 8, 2010 ("Christina's Letter"). During these conversations, you stated that Christina's Letter completely distorts, misrepresents and/or fabricates the facts or events of your conversation and/or meeting with her. You communicated to me that Christina threatened you during your meeting. You told me that she accused you of being unprofessional and that you thought she would file a complaint with the board in Nevada that regulates your professional license and/or sue you for malpractice unless you ceased treating Mia Stipp ("Mia").

As you are aware, without any response to Christina's Letter, my attorney has informed me that we have no other choice but to write this letter and to notice you for a deposition. In the meantime, I expect that Christina will provide Christina's Letter to Dr. Paglini and that she will represent to Dr. Paglini that the letter is an accurate account of her conversation and/or meeting with you. While I hope that Dr. Paglini will contact you (as I have previously authorized him to do so), I am not certain when this will occur and I cannot allow Christina's Letter to remain

unanswered. Please be advised that I intend to provide Dr. Paglini a copy of Christina's Letter and my letter to you.

During our conversations, you communicated to me the following specific items with respect to Christina's Letter:

1. You admitted that you informed Christina that I prepared a draft of the letter dated December 4, 2009. However, you informed me that you also told Christina that you typically ask your clients who request letters to prepare the initial drafts.
2. You did not communicate to Christina that you were sorry for writing the letter dated December 4, 2009. You informed me that you told Christina that you were sorry that anything in the letter dated December 4, 2009 caused her any pain.
3. You did not communicate to Christina that Mia has not been or is not being abused. You told me that you informed Christina that you evaluated Mia for issues concerning her clothing and divorce-related matters, that Mia reported to you the statements identified in your December 4, 2009 letter to me, and that you have not reached any conclusion whether Mia has been emotionally abused.
4. You admit that you mistakenly informed Christina that you were unaware of the fact that Dr. Mishalow was treating Mia. However, you told me that you did not have your notes with you during your conversation and/or meeting with Christina. You specifically informed me that after reviewing your records that you discovered a note that I informed you of this fact on October 30, 2009.
5. You did not offer to write Christina a letter stating that Mia has not been abused. You informed me that you offered to write a letter stating that you did not conclude whether Mia has been emotionally abused.

Although we did not discuss each statement Christina alleges you made in Christina's Letter, it is clear that you could not have made many them. The following facts are not in dispute:

1. During our initial consultation on or about September 7, 2009, I informed you that Mia had clothing issues and was emotionally traumatized by statements made by

Christina to Mia. I did inform you that I thought Mia suffered from an obsessive compulsive disorder which caused her clothing issues. I also specifically told you that I thought Mia was being emotionally abused by Christina and this abuse was aggravating her possible obsessive compulsive disorder.

2. The focus of your sessions with Mia was Mia's clothing issues. You informed me that you thought Mia did not have an obsessive compulsive disorder. You also informed me that you believed that Mia exhibited signs of a sensory processing disorder. However, you informed me that Mia should be evaluated and treated by Dr. Tania Stegen-Hanson for this condition.
3. On October 30, 2009, I informed you that I filed a motion in family court to obtain more time with Mia (and her brother, Ethan).
4. At the time I asked you to prepare the December 4, 2009 letter, I specifically informed you that I needed the letter in order to confirm the statements Mia made to you and that I would be using it (if necessary) for the hearing scheduled on December 8, 2009.
5. I informed you on or around December 8, 2009 that Dr. Mishalow refused to provide any information on Mia's sessions with Christina. You also asked Mia about Dr. Mishalow during one of Mia's sessions in December of 2009 and she did not want to discuss him.
6. Mia's treatment included sessions for divorce-related matters.
7. I informed you after the hearing on December 8, 2009 that Dr. Paglini was assigned by the court to perform a child custody assessment. I also informed you that you could continue to treat Mia based on the court's orders. I supplied you a copy of the minutes of the hearing.
8. At Mia's session on December 31, 2009, you informed Mia that you scheduled an appointment with Christina. You communicated to me that Mia responded that she did not want you to communicate to Christina the statements Mia made to you during

her sessions and that Mia was worried. She told you that Christina was mean to her and always put her in time out.

9. I did not object to you meeting with Christina or you providing any records or information regarding Mia's treatment to her.

It is clear from Christina's Letter that she is only interested in "creating" a record in order to influence Dr. Paglini's child custody evaluation. Her letter is self-serving and places you (and me) in an unfortunate position for which I regret.

Again, thank you for treating Mia. I appreciate your referral to Dr. Stegen-Hanson. I hope and expect that Mia will benefit from occupational therapy.

Best Regards,

A handwritten signature in black ink, appearing to read "Mitchell Stipp". The signature is fluid and cursive, with the first name "Mitchell" written in a larger, more prominent script than the last name "Stipp".

Mitchell Stipp

cc: Dr. Paglini (via fax w/ encls.)

Radford Smith, Esq. (via fax w/o encls)

EXHIBIT E

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**

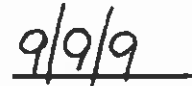
Melissa F. Kalodner, Psy.D., RPT-S**Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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 11th 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**

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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

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.

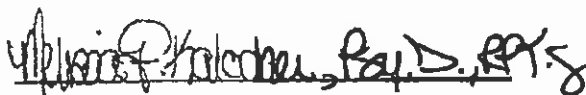
Mia did make comments, such as.

"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**

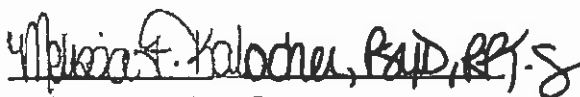
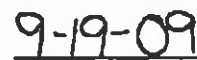
Client, Mia Stipp**Date, 9-19-2009****Time, 2.30pm – 3.25pm****Duration, 55 minutes****Code, 90806**

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****Date**

9/21/09

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

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

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

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

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

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

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

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

Article Source: http://EzineArticles.com/?expert=Deborah_Woodward

9/21/09

TACTILE FUNCTIONING (SOMATOSENSORY)

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

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

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

Tactile Defensiveness (hyper-sensitivity)

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

Behaviors We May See

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

Avoidance of Handling Sensory Material

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

Limited Use of Hands for Grasping

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

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

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

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

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

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

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

Client, Mia Stipp**Date, 9-26-2009****Code, Phone consultation with Dr. Julie Beasley**

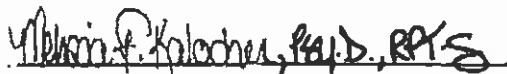
Phone call to Dr. Julie Beasley, child neuropsychologist, to consult this case with her. I am concerned that we are not dealing with OCD at this time, but a sensory processing issue. Dr. Beasley agreed and felt that a referral to the Achievement Therapy Center for occupational therapy may be helpful.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

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Client: Mia Stipp**Date: 09-29-2009****Time: 2:30pm – 3:20pm****Duration: 50 minutes****Code: 90846**

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

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

Client. Mia Stipp**Date. 10-10-2009****Time. 4.30pm – 5.20pm****Duration. 50 minutes****Code. 90806**

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

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

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

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

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

Clinical Child Psychologist

Registered Play Therapist – Supervisor

10-10-09

Date

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

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**

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****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**

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

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

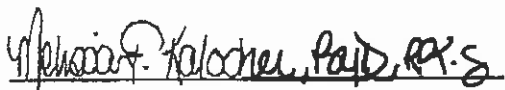
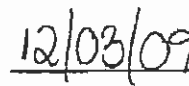
Melissa F. Kalodner, Psy.D., RPT-S**Clinical Child Psychologist and Registered Play Therapist – Supervisor****2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052****Office (702) 310-8787 – Fax (702) 310-8798**

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

December 4, 2009

Sent Via Facsimile, (702) 304-0275

Mitchell Stipp
2055 Alcova Ridge Drive
Las Vegas, Nevada 89135

RE: Mia Stipp

Dear Mr. Stipp,

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

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

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

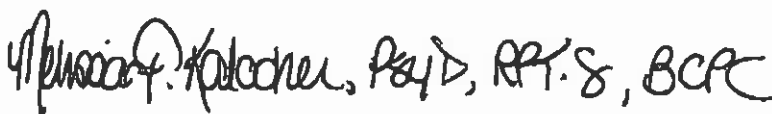
I informed you of my conversation with Christina. You indicated to me that you and your wife, Amy Stipp, wanted my assistance with Mia's clothing issues and to assess how Mia was coping with the divorce. As you know, I evaluated Mia for approximately five sessions of fifty minutes each. During these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

- (1) "I want to spend more time with my Dada but Mommy says we can't change the rules."
- (2) "I want to spend more time with my Dada but the judge won't let me."
- (3) "Amy was married to James."
- (4) "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
Clinical Child Psychologist
Registered Play Therapist – Supervisor
Board Certified Professional Counselor

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

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.

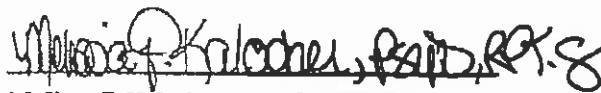
**Melissa F. Kalodner, Psy.D., RPT-S****Clinical Child Psychologist****Registered Play Therapist – Supervisor**12-19-09**Date**

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**

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

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

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

Clinical Child Psychologist

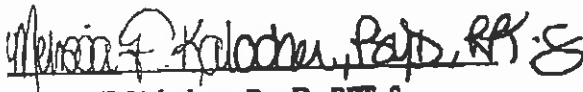
Registered Play Therapist – Supervisor

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) 310-8798**

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 8th 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

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.

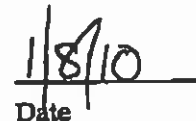
Mia will have a final termination session today at 1pm.



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

Clinical Child Psychologist

Registered Play Therapist – Supervisor



Date

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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: 1-08-2010

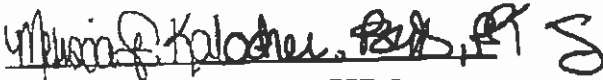
Time: 1pm – 2pm

Duration: 1 hour

Code: 90806/90846

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


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



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

Clinical Child Psychologist

Registered Play Therapist – Supervisor



Date

Melissa F. Kalodner, Psy.D., RPT-S, BCPC
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2904 W. Horizon Ridge Parkway, Suite 100 – Henderson, NV 89052
Office (702) 310-8787 – Fax (702) 310-8798


January 12, 2010

Sent Via Facsimile. (702) 240-4937

Dear Christina,

Records on Mia Stipp will be sent by the 15th 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