

EXHIBIT “E”


CLERK OF THE COURT

1 MOT

2 RADFORD J. SMITH, CHARTERED

3 RADFORD J. SMITH, ESQ.

4 Nevada Bar No. 002791

5 64 N. Pecos Road, Suite 700

6 Henderson, Nevada 89074

7 T: (702) 990-6448

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10 MITCHELL D. STIPP, ESQ.

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12 7 Morning Sky Lane

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15 F: (702) 483-6283

16 Email: Mitchell.Stipp@yahoo.com

17 Attorneys for Defendant

18 **DISTRICT COURT**
19 **CLARK COUNTY, NEVADA**

20 CHRISTINA CALDERON STIPP,

21 Plaintiff,

22 v.

23 MITCHELL DAVID STIPP,

24 Defendant.

CASE NO.: D-08-389203-Z

DEPT.: M

FAMILY DIVISION

ORAL ARGUMENT REQUESTED

YES ☐ NO ☒

25 **EX PARTE MOTION TO CORRECT MINUTES AND ORDER**
26 **FROM THE HEARING ON DECEMBER 1, 2010**

27 DATE OF HEARING: N/A

28 TIME OF HEARING: N/A

1 COMES NOW, Defendant MITCHELL D. STIPP ("Mitchell"), by and through his attorney
2 Radford J. Smith, Esq., of the firm of Radford J. Smith, Chartered, and submits the following points and
3 authorities in support of Mitchell's motion captioned above.
4

5 This motion is based upon Mitchell's affidavit attached hereto as Exhibit "A," the following
6 points and authorities, all exhibits attached hereto, and all pleadings and papers on file in this action.

7 DATED this 20 day of April, 2011.

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

(702) 990-6448

14 Attorneys for Defendant

15 **I.**
STATEMENT OF FACTS

16 The parties, Mitchell Stipp ("Mitchell") and Christina Calderon Stipp ("Christina"), were before
17 the Court on April 12, 2011 as a result of yet another motion filed by Christina. Christina's motion was
18 a poorly disguised motion for reconsideration of the order from the hearing on December 1, 2010, which
19 is attached hereto as Exhibit "B."
20

21 At the hearing on December 1, 2010, Judge Potter denied virtually all of the motions Christina
22 had filed; however, Christina's counsel, Patricia Vaccarino, Esq., demanded that she be permitted to
23 prepare the form of the order arising from the hearing. The Court permitted Ms. Vaccarino to do so, but
24 stated on the record that it would *not* enter any order unless both Ms. Vaccarino and Mitchell's counsel
25 signed it. See Court Minutes at pg. 6 ("Ms. Vaccarino shall prepare the order, Mr. Smith to review and
26 sign off.") attached hereto as Exhibit "C;" Transcript Re: All Pending Motions at pg. 57, lines 3 and 4
27
28

1 ("If I don't get [an order] signed by both of you, it's not going to get done.") attached hereto as Exhibit
2 "D."

3
4 To provide a future opportunity for Christina to return to Court, Mitchell believes Ms. Vaccarino
5 purposely omitted the Court's express orders at the December 1, 2010 hearing denying both Christina's
6 motion for an order to show cause pending from the October 6, 2010 hearing, and her motion for
7 Mitchell to commence sessions with the parenting coordinator. Both of these decisions are clearly
8 contained in the Court's minutes and written transcript of the hearing. *See* Court Minutes at pg. 6 ("The
9 request for an Order to Show Cause is DENIED.") and ("The request to compel Defendant to cooperate
10 in commencing sessions with the Parenting Coordinator is DENIED.") attached hereto as Exhibit "C;"
11 Transcript Re: All Pending Motions at pg. 39, lines 4-20 ("The order to . . . show cause denied.") and
12 pg. 53, lines 4 and 5 ("Compel Dad to cooperate in commencing sessions with parenting coordinator is
13 denied.") attached hereto as Exhibit "D."

14
15 At the hearing on December 1, 2010, the Court also denied Christina's requests for relief with
16 respect to Judge Sullivan's order from the hearing on June 22, 2010 concerning financial matters (i.e.,
17 new trial, amended findings, rescission, reconsideration, modification and/or stay were all denied) which
18 decision is accurately reflected in the minutes, order and transcript for the hearing. However, the
19 Court's minutes and order prepared by Ms. Vaccarino incorrectly provide that Christina's request to
20 access Mitchell's tax records as previously ordered is granted. Judge Sullivan never ordered Mitchell to
21 provide Christina his personal tax returns. *See* Order from Hearing on June 22, 2010 attached hereto as
22 Exhibit "E." Furthermore, the official written transcript for the hearing on December 1, 2010 makes it
23 clear that the Court did not rule that Christina should have access to Mitchell's personal tax returns.
24
25

26 Before closing the case at the hearing on December 1, 2010, the Court did not expressly rule
27 upon Mitchell's countermotions pending from the October 6, 2010 and December 1, 2010 hearings.
28

1 Those countermotions included Mitchell's request to have sole decision-making authority over
2 healthcare matters affecting the children and his requests for attorney's fees and costs. At the hearing on
3 April 12, 2011, the Court indicated that it intended to deny those countermotions.

4
5 The Court entered the order submitted and signed by Ms. Vaccarino despite the previous written
6 objections of Mitchell's counsel and form of order Mitchell's counsel separately submitted to the Court
7 for its consideration, which Mitchell believes more accurately reflects the Court's decisions at the
8 hearing. *See* Correspondence from Radford Smith to Judge Potter attached hereto as Exhibit "F."

9
10 For the reasons stated above, Mitchell appealed the order from the hearing on December 1, 2010.
11 This case is identified by the Nevada Supreme Court on its Docket as No. 57876. At the hearing on
12 April 12, 2011, the Court desired to vacate the order because it acknowledged that entry of the order was
13 a mistake.

14
15 **II.
POINTS AND AUTHORITIES**

16 NRCP 60(a) provides:

17 Clerical mistakes in judgments, orders or other parts of the record and
18 errors therein arising from oversight or omission may be corrected by the
19 court at any time of its own initiative or on the motion of any party and
20 after such notice, if any, as the court orders. During the pendency of an
21 appeal, such mistakes may be so corrected before the appeal is docketed in
22 the appellate court, and thereafter while the appeal is pending may be so
23 corrected with leave of the appellate court.

24 *Id.* (emphasis added).

25 Mitchell has filed his motion ex parte and has not requested a hearing. Pursuant to NRCP 60(a),
26 the Court can correct the minutes and order from the hearing on December 1, 2010 upon Mitchell's
27 motion without notice to Christina. Ms. Vaccarino has acknowledged the errors in the order as
28 described above at the hearing on April 12, 2011, and the Court at the hearing has indicated that it was
inclined to correct them. Mitchell does not want to waste the Court's resources by requesting a hearing

1 when the Court's position on the matter is clear. However, because the order is on appeal, the Court
2 may only correct the minutes and order now with leave of the Nevada Supreme Court.

3 Recently, the Nevada Supreme Court in *Foster v. Dingwall*, 228 P.3d 453 (Nev. 2010), took the
4 opportunity to clarify and explain more fully the process, announced in *Huneycutt v. Huneycutt*, 94 Nev.
5 79, 575 P.2d 585 (1978), for seeking a remand to the district court to alter, vacate, or otherwise modify
6 or change a district court order or judgment after an appeal to the Nevada Supreme Court from that order
7 or judgment has been perfected. The Nevada Supreme Court in *Foster* clarified and explained the
8 process in *Huneycutt* as follows:
9

10
11 As outlined in *Huneycutt*, prior to filing a motion for remand in this court, a party seeking
12 to alter, vacate, or otherwise change or modify an order or judgment challenged on appeal
13 should file a motion for relief from the order or judgment in the district court. As
14 demonstrated by our *Huneycutt* decision, despite our general rule that the perfection of an
15 appeal divests the district court of jurisdiction to act except with regard to matters
16 collateral to or independent from the appealed order, the district court nevertheless retains
17 a limited jurisdiction to review motions made in accordance with this procedure. In
18 considering such motions, the district court has jurisdiction to direct briefing on the
19 motion, hold a hearing regarding the motion, and enter an order denying the motion, but
lacks jurisdiction to enter an order granting such a motion. Some of our caselaw implies,
however, that the district court lacks the authority to deny requests for relief regarding
matters that are not collateral to or independent from the appealed order while the appeal
remains pending. We take this opportunity to clarify that the district court *does* have
jurisdiction to *deny* such requests.

20 As for the remand procedure, if the district court is inclined to grant the relief
21 requested, then it may certify its intent to do so. At that point, it would be appropriate
22 for the moving party to file a motion (to which the district court's certification of its
23 intent to grant relief is attached) with this court seeking a remand to the district court
24 for entry of an order granting the requested relief. This court will then consider the
request for a remand and determine whether it should be granted or denied. If the district
court is not inclined to grant the requested relief, however, then as stated above, the
district court may enter an order denying the motion.

25 *Id.* at 455-56 (emphasis added and in original) (citations omitted).

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**III.
CONCLUSION**

Based upon the foregoing, Mitchell respectfully requests that the Court vacate the order from the hearing on December 1, 2010 and enter the form of order submitted to the Court by Mitchell's counsel which is attached as part of Exhibit "F" hereto; or in the alternative, enter the amendment to the order attached hereto as Exhibit "G." Before granting Mitchell's motion, however, the Court must certify its inclination to do so by entering the form of certification attached hereto as Exhibit "H." Thereafter, Mitchell will file a motion with the Nevada Supreme Court in Case No. 57876 to have the case remanded to the Court for entry of the form of order or amendment to order referenced in this paragraph.

DATED this 20 day of April, 2011.


RADFORD J. SMITH, CHARTERED

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

**DEFENDANT’S EX PARTE MOTION
EXHIBIT “A”**

AFFIDAVIT OF MITCHELL DAVID STIPP

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

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

1. 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 Ex Parte Motion to Correct Minutes and Order from the Hearing on December 1, 2010 (the "Motion").

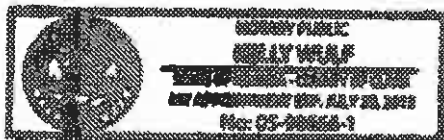
2. I have personal knowledge of the facts contained in the Motion, I am competent to testify thereto, and the facts contained therein are true and accurate to the best of my knowledge and belief.

FURTHER, AFFIANT SAYETH NOT.


MITCHELL DAVID STIPP

Subscribed and sworn before me this 20th day April, 2011.


NOTARY PUBLIC in and for the State of Nevada



**DEFENDANT’S EX PARTE MOTION
EXHIBIT “B”**

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

DATE OF HEARING: December 1, 2010
TIME OF HEARING: 2:00 p.m.

THIS matter having come before the Court upon Plaintiff's, CHRISTINA CALDERON STIPP ("CHRISTINA"); Motion for A New Trial, to Amend Findings and/or Stay of Order Filed on October 13, 2010, and allowing Plaintiff Immediate Access to Defendant's Tax Records As Previously Ordered, and to Compel Defendant to Cooperate in Commencing Sessions with the Parenting Coordinatory and For Attorney's Fees and Costs and upon Defendant's MITCHELL DAVID STIPP ("MITCH") Opposition and Countermotion for an Award of Attorney's Fees and Costs and Sanctions; CHRISTINA appearing in person and through her attorney of record PATRICIA L. VACCARINO, ESQ. of the VACCARINO LAW OFFICE; MITCH appearing in person and through his attorney of record, RADFORD J. SMITH, ESQ.; upon the Court's inquiry, both counsel having confirmed that they have reviewed Judge Sullivan's orders from the May 6, 2010 and the June 22, 2010 hearings; the Court being fully apprized in the premise and good cause appearing;

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[illegible]

1 Now therefor,

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Court reiterates its Order
3 that the Parenting Coordinator, Dr. Gary Lenkeit, has not been appointed as a Master. To clarify
4 the Court's Order from the October 6, 2010 hearing, if Dr. Lenkeit requests any pleadings and/or
5 reports from parties and counsel, his requests will be granted. Both counsel shall provide Dr.
6 Lenkeit with any requested information and documentation. The Court reserves jurisdiction to
7 address any objections any party may make to any documentation or information requested by
8 Dr. Lenkeit.

9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA's requests
10 for an award of attorney's fees from the October 6, 2010 hearing and today's hearing are denied.

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the previous attorney's
12 fees award in the amount of \$4,590.00, granted to MITCH by Judge Sullivan is reduced to
13 judgment. This judgment is collectable by all legal means if not paid in full within sixty (60) days
14 of Judge Sullivan's order.

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA's request for
16 healthcare for the minor child, MIA, is deferred. The parties are directed to attempt to resolve this
17 issue with the assistance of Dr. Lenkeit, the Parenting Coordinator. The Court will not entertain
18 another Motion on this issue until 90 days of the date of this hearing.

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the "no contact" request
20 for CODY is hereby denied.

21 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request for an order
22 for counseling for the minor child ETHAN is denied.

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request for a new trial
24 is denied.

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request to amend
26 findings is denied.

27 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request for rescission,
28 reconsideration, modification and/or stay of order filed October 13, 2010 is denied.

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that CHRISTINA's request to
2 access MITCH's tax records as previously ordered is granted.

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED as for the tax records of the
4 Aquila, a business entity which is no longer in business, it appears that Judge Sullivan intended
5 that tax returns from the years 2007 and 2008 for this business to be reviewed by a tax expert.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that CHRISTINA, her chosen
7 expert and Ms. Vaccarino shall provide the expert's name to MITCH and Mr. Smith. The selected
8 expert, Ms. Vaccarino and CHRISTINA must also execute a Confidentiality Agreement.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that CHRISTINA and her
10 counsel are granted the authorization to receive the ordered documents from Aquila through
11 discovery for only the years 2007 and 2008.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that CHRISTINA's counsel can
13 file an Ex Parte Order to amend the order from the October 6, 2010 hearing if they believe there
14 are portions of the order that need correction.

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if the Court finds the next
16 Motion filed by either party is not legally or factually warranted, the Court will sanction a party and
17 award attorney's fees.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED the return date previously
19 scheduled for January 11, 2011 for status check on outsourced evaluation is vacated.

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED if problems arise, counsel are
2 directed to file a Motion.


3 Based upon the foregoing,

4 IT IS SO ORDERED this _____ day of JAN 24 2011 2010.

5
6 
7 DISTRICT COURT JUDGE 

8 Respectfully submitted by:

9 VACCARINO LAW OFFICE

10
11 
12 PATRICIA L. VACCARINO, ESQ.
13 Nevada Bar No. 005157
14 8861 W. Sahara Ave., Suite 210
15 Las Vegas, Nevada 89117
16 (702) 258-8007
17 Attorney for Plaintiff,
18 CHRISTINA CALDERON SMITH
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**DEFENDANT’S EX PARTE MOTION
EXHIBIT “C”**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Joint Petition

COURT MINUTES

December 01, 2010

D-08-389203-Z

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

December 01, 2010 2:00 PM

Motion for New Trial

HEARD BY: Potter, William

COURTROOM: RJC Courtroom 10B

COURT CLERK: Sherri Estes

PARTIES:

Christina Stipp, Petitioner, not present	Patricia Vaccarino, Attorney, not present
Ethan Stipp, Subject Minor, not present	
Mia Stipp, Subject Minor, not present	
Mitchell Stipp, Petitioner, not present	Radford Smith, Attorney, not present

JOURNAL ENTRIES

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: January 11, 2011 2:30 PM Return Hearing
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated - per Judge
RJC Courtroom 10B
Potter, William
Estes, Sherri*

PRINT DATE: 12/13/2010

Page 1 of 7

Minutes Date:

December 01, 2010

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Joint Petition

COURT MINUTES

December 01, 2010

D-08-389203-Z

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

December 01, 2010 2:00 PM

**Opposition &
Counter-motion**

HEARD BY: Potter, William

COURTROOM: RJC Courtroom 10B

COURT CLERK: Sherri Estes

PARTIES:

Christina Stipp, Petitioner, not
present

Patricia Vaccarino, Attorney,
not present

Ethan Stipp, Subject Minor, not
present

Mia Stipp, Subject Minor, not
present

Mitchell Stipp, Petitioner, not
present

Radford Smith, Attorney, not
present

JOURNAL ENTRIES

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: January 11, 2011 2:30 PM Return Hearing
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated - per
Judge
RJC Courtroom 10B
Potter, William
Estes, Sherri*

PRINT DATE: 12/13/2010

Page 3 of 7

Minutes Date:

December 01, 2010

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Joint Petition

COURT MINUTES

December 01, 2010

D-08-389203-Z

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

December 01, 2010 2:00 PM

All Pending Motions

HEARD BY: Potter, William

COURTROOM: RJC Courtroom 10B

COURT CLERK: Sherri Estes

PARTIES:

Christina Stipp, Petitioner,
present
Ethan Stipp, Subject Minor, not
present

Mia Stipp, Subject Minor, not
present

Mitchell Stipp, Petitioner,
present

Patricia Vaccarino, Attorney,
present

Radford Smith, Attorney,
present

JOURNAL ENTRIES

- - CHRISTINA STIPP'S MOTION FOR NEW TRIAL TO AMEND FINDINGS AND/OR FOR RESCISSION, RECONSIDERATION, MODIFICATION AND/OR STAY OF ORDER FILED ON October 13, 2010, AND ALLOWING PLAINTIFF IMMEDIATE ACCESS TO DEFENDANT'S TAX RECORDS AS PREVIOUSLY ORDERED, AND TO COMPEL DEFENDANT TO COOPERATE IN COMMENCING SESSIONS WITH THE PARENTING COORDINATOR AND FOR ATTORNEY'S FEES AND COSTS...MITCHELL STIPP'S OPPOSITION AND COUNTERMOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS AND SANCTIONS

Mr. Smith requested a CLOSED HEARING, COURT SO ORDERED. Also present with Mr. Smith at Defendant's table is his assistant, Amy Wolf. Upon the Court's inquiry, both counsels have reviewed

PRINT DATE: 12/13/2010

Page 5 of 7

Minutes Date:

December 01, 2010

the orders from the May 6th and the June 22nd hearings.

Arguments. COURT ORDERED the following:

As for Dr. Lenkeit, the Court specifically stated he was not being appointed as a Master, therefore, if Dr. Lenkeit requests any pleading and/or reports his request will be GRANTED and both counsel shall provide him with same.

Ms. Vaccarino's request for Attorney's fees from the October 5, 2010 and any other additional fees for this hearing today (12/1/10) are hereby DENIED. The previously awarded amount of \$4,590.00 by Judge Sullivan is hereby REDUCED TO JUDGMENT collectable by any means if not paid in full within 60 days per of Judge Sullivan's order.

Regarding a doctor for Mia, the parties will attempt to work out this issue with Dr. Lenkeit; the Court will not entertain another motion regarding this issue in no less than 90 days.

The no contact request with Cody is DENIED. The request for counseling for Ethan is DENIED. The request for an Order to Show Cause is DENIED. The request for a new trial is DENIED. The request to amend findings is DENIED. The request for rescission, reconsideration, modification and/or stay of order filed October 13, 2010 is DENIED. The request to compel Defendant to cooperate in commencing sessions with the Parenting Coordinator is DENIED.

Allowing Plaintiff immediate access to Defendant s tax records as previously ordered is GRANTED. As for the tax records for Aquila (no longer in business) it appears that Judge Sullivan did intend that the taxes for 2007 and 2008 were to be reviewed by a tax expert. Ms. Vaccarino is permitted to hire her expert and that expert will be given access but must sign a non confidentiality disclosure agreement; Plaintiff and Ms. Vaccarino must also sign same disclosure. This Court for the record has not authority to compel Aquila to do anything. Ms. Vaccarino has authorization to obtain the documents from Aquila through discovery; Ms. Vaccarino is entitled to the documents STRICTLY for 2007 and 2008.

Ms. Vaccarino can file an Ex Parte order to amend the last order if she feels there are portions of the order that needs to be corrected.

If the Court does not feel the next motion is of legal authority, the Court will sanction and award attorney's fees.

The return date set for 1/11/11 regarding the outsourced parenting coordinator is VACATED. If there are problems that arise, the Court directed counsel to file a motion.

Ms. Vaccarino shall prepare the order, Mr. Smith to review and sign off.

CASE CLOSED

INTERIM CONDITIONS:

FUTURE HEARINGS:

*Canceled: January 11, 2011 2:30 PM Return Hearing
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated - per
Judge
RJC Courtroom 10B
Potter, William
Estes, Sherri*

**DEFENDANT’S EX PARTE MOTION
EXHIBIT “D”**

1 TRANS

FILED

JAN 06 2011

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4 COPY

John J. Williams
CLERK OF COURT

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 CHRISTINA CALDERON STIPP)

10 Plaintiff,)

CASE NO. D-08-389203-Z

11 vs.)

DEPT. M

12 MITCHELL DAVID STIPP)

13 Defendant.)

SEALED CASE

14
15 BEFORE THE HONORABLE WILLIAM POTTER, DISTRICT COURT JUDGE

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 WEDNESDAY, DECEMBER 1, 2010

1 APPEARANCES:

2 The Plaintiff:
3 For the Plaintiff:

CHRISTINA CALDERON STIPP
PATRICIA VACCARINO, ESQ.
8861 West Sahara Ave., #210
Las Vegas, Nevada 89117
(702) 258-8007

5 The Defendant:
6 For the Defendant:

MITCHELL DAVID STIPP
RADFORD SMITH, ESQ.
64 North Pecos Rd., #700
Henderson, Nevada 89074
(702) 990-6448

8 Also Present:

KELLY WOLF
Assistant

1 LAS VEGAS, NEVADA

WEDNESDAY, DECEMBER 1, 2010

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 14:22:24.)

4 THE COURT: This is Case D-08-389203-Z.

5 Counsel, if you could state your appearances for the
6 record.

7 MR. SMITH: This is a sealed matter, Your Honor.

8 THE COURT: Yeah, we're going to ask anybody who's not
9 related to the parties by blood or marriage to step out into
10 the hall. Hopefully, it won't be for very long.

11 MR. SMITH: It's up to you.

12 THE COURT: Hopefully, Mr. Prokopious lied to me when he
13 told me that his case would be quicker than yours. It is kind
14 of up to me, isn't it?

15 MR. SMITH: It is.

16 THE COURT: All right.

17 Ms. Vaccarino, if you could state your appearance
18 for the record.

19 MS. VACCARINO: Thank you, Your Honor. Patricia
20 Vaccarino, Bar Number 5157, present and appearing with the
21 plaintiff, Christina Calderon.

22 MR. SMITH: Radford Smith, 2791, here with Mitchell Stipp
23 who is to my left, Your Honor.

24 THE COURT: And, Counsel, have both of you received the

1 orders from Judge Sullivan? There's two orders. One was
2 filed November 4th that addresses a hearing on May 6th. The
3 other one is file stamped November 30th and involves a hearing
4 from June 22nd.

5 Have you had an opportunity to review those orders,
6 Ms. Vaccarino?

7 MS. VACCARINO: I have, Your Honor.

8 THE COURT: Okay. And --

9 MR. SMITH: Doing my own marshal work (chuckle).

10 THE COURT: Somebody's got to do it.

11 And the other people in the courtroom are related?

12 MR. SMITH: That's my assistant, Your Honor, Kelly Wulf.

13 THE COURT: All right. Well, why don't we have her sit
14 up at the table.

15 MR. SMITH: And then this is Amy Stipp, the wife of --

16 THE COURT: Okay.

17 MR. SMITH: -- Mr. Stipp.

18 THE COURT: And, Mr. Smith, you had an opportunity to
19 review those two orders?

20 MR. SMITH: I have, Your Honor.

21 THE COURT: Okay. All right. I believe that they
22 address many of the issues that were laid out in the motion
23 for new trial, amend findings, recision, reconsideration,
24 modification, et cetera. I believe they adequately address

1 the issue of omitted assets, the prior attorney's fees issue.
2 As for the tax records it appears that Judge Sullivan didn't
3 intend that the --

4 Is it Aquila?

5 MS. VACCARINO: Aquila.

6 THE COURT: -- Aquila investment business that their --
7 that their tax returns for 2007 and 2008 were to be reviewed,
8 and it permitted for, I believe, that review by a tax expert.
9 However, I understand the issue as to the request for non-
10 disclosure.

11 MS. VACCARINO: If I may address that confidentiality --

12 THE COURT: Go ahead.

13 MS. VACCARINO: The confidentiality agreement, Your Honor
14 -- if we're doing this -- even in law school, I'm like -- and
15 for doing this for fifteen, twenty years, I understand very
16 clearly that I'm one of the persons that has access. So I'm
17 individually liable if he sues me later and proves that I
18 willfully disclosed it to a third party. What he's asked me
19 to do which I've never seen in a confidentiality agreement is
20 to take liability as the attorney for the accountant as well
21 as my client when they're each in the agreement accepting
22 liability themselves.

23 So that was the only issue because you can see that
24 it appears that I can't -- you know, our side can't control

1 one word of --

2 THE COURT: Yeah.

3 MS. VACCARINO: -- one agreement. So -- and it just
4 seems entirely --

5 THE COURT: Is there any reason that --

6 MS. VACCARINO: -- unreasonable.

7 THE COURT: Is there any reason -- does your client have
8 any insight at all that the -- any reason that she should
9 personally have access to these records?

10 MS. VACCARINO: Well, she's allowed to per The Court
11 order.

12 THE COURT: I know. But why --

13 MS. VACCARINO: And in order -- this would be what would
14 happen. I have to review the records with the accountant. We
15 have to go to her and say, Ms. Stipp this is what we found,
16 Ms. Calderon this is what we found and this is what we think
17 merits further -- you know, that's why Judge Sullivan -- he
18 was inclined to deny her motion for omitted assets, but left
19 the door open for some tax returns subject to confidentiality
20 agreement. And the one issue on that is whether or not they
21 get to word every single -- single minutiae.

22 THE COURT: All right. Thank you.

23 MS. VACCARINO: Thank you.

24 THE COURT: The -- she's got to sign one. Each person

1 individually -- the only people that will have access will be
2 the plaintiff.

3 MR. SMITH: Plaintiff doesn't have access. By his orders
4 it's only Counsel and the tax expert.

5 THE COURT: Where --

6 MS. VACCARINO: The order he --

7 THE COURT: Where's that?

8 MS. VACCARINO: -- you entered that you prepared yourself
9 that I wasn't allowed to sign off on because he submitted it
10 to Judge --

11 THE COURT: Hold on. Hold on. Where's that, Counsel?
12 What order is that in? Because the -- I mean, the most recent
13 order, the one that's filed on November 4th on page 11, the
14 fourth paragraph down says:

15 (Reading from document) Court denied Plaintiff's
16 request to modify the order from the hearing on February 3rd,
17 2010, allowed Plaintiff to hire forensic accountant to review
18 Aquila Investment tax returns for 2007 and 2008.

19 MR. SMITH: The most recent order on that was on October
20 6th, Your Honor. And the paragraph is Paragraph 6 on page 5
21 of that order, which reads:

22 (Reading from document) Counsel for Christina has
23 requested that The Court permit an accounting expert, a CPA,
24 to review the tax returns of Aquila Investments submitted by

1 Mitchell to The Court. And Mitchell has no objection to that
2 request.

3 THE COURT: All right. Tell me --

4 MR. SMITH: (Reading from document) Consequently, The
5 Court shall permit either counsel for Christina and/or her
6 accounting expert to examine the Aquila Investment tax returns
7 in a manner consistent --

8 THE COURT: Well, now these --

9 MR. SMITH: -- with the terms of The Court's --

10 THE COURT: Are these the same --

11 MR. SMITH: -- April 13th order.

12 THE COURT: -- tax returns that have already been
13 provided for in-camera review?

14 MR. SMITH: Yes. And he reviewed them before making his
15 orders, Your Honor.

16 THE COURT: And so Sullivan's seen them and has -- we
17 presume he's got copies of them.

18 MR. SMITH: Yes.

19 THE COURT: All right.

20 And to date, Ms. Vaccarino, you have not seen them?

21 MS. VACCARINO: No, we can't get -- since August -- July
22 I've been trying to hammer out the confidentiality agreement
23 wording. That's why I filed the motion.

24 THE COURT: All right.

1 MS. VACCARINO: One of them at least.

2 THE COURT: And, once again, explain to me what's the --
3 what is Aquila Investments, Counsel?

4 MR. SMITH: Aquila. And it's a -- it was a company that
5 was -- in which the parties had a certain kind of interest.
6 Those interests were addressed as part of the decree of
7 divorce. As a prominent part of her motion, Ms. --

8 THE COURT: Is your client a principal in the business?

9 MR. SMITH: No. No, he is not a principal in the
10 business. And, in fact, as we've indicated in the response,
11 Your Honor, he was required to sign his own confidentiality --

12 THE COURT: I got it. Well, what's --

13 MR. SMITH: -- which essentially mirrors the terms of the
14 confidentiality agreement we did make.

15 THE COURT: What's his relationship to Aquila?

16 MR. SMITH: He simply has a profits interest in a company
17 that -- well, yeah, in a company that is --

18 THE COURT: What --

19 MR. SMITH: -- no longer profitable or no longer in busin
20 --

21 THE COURT: What business is the company involved in?

22 MR. SMITH: It was involved -- it tended to be involved
23 in a major development project. But that project went
24 bankrupt as did all the other companies surrounding that

1 project. And it does -- it no longer is in business. It does
2 do - it doesn't do anything.

3 MS. VACCARINO: We understand that he was an actual --
4 had an ownership interest that obviously gives him profit
5 sharing rights. So that's -- was part of the mystery --

6 THE COURT: Okay.

7 MS. VACCARINO: -- of why Judge --

8 THE COURT: Well, that --

9 MS. VACCARINO: -- Sullivan was allowing access.

10 THE COURT: Your client doesn't -- your client doesn't
11 know anything. Has she got a CPA degree? Is she -- I mean,
12 is she a licensed accountant?

13 MS. VACCARINO: No, but --

14 THE COURT: Does she have some specific --

15 MS. VACCARINO: I have no quarrel, Your Honor, with -- if
16 they want to stick to the -- because I went back and forth
17 with Rad and I can show you correspondence where he was
18 willing to --

19 THE COURT: You hire --

20 MS. VACCARINO: -- allow my client access.

21 THE COURT: You hire your expert.

22 MS. VACCARINO: Okay.

23 THE COURT: Your expert will --

24 MS. VACCARINO: I go in --

1 THE COURT: -- be given grant -- will be granted access.
2 Your expert's going to sign the non -- the confidentiality and
3 non-disclosure agreement.

4 MS. VACCARINO: And I get to see it as well with him.
5 That's what the order states. But no disclosure to her until
6 I come back to court and ask you if I can because we found
7 something that we may want to disclose to her to proceed
8 further. I mean, that -- otherwise, I get the information and
9 then it's stuck in a vacuum and I don't get to consult with my
10 client on it. So --

11 THE COURT: Right. And if you --

12 MS. VACCARINO: -- I don't know why they're making me
13 take that extra step, only because we love to litigate, I
14 guess. But --

15 THE COURT: If you find something that's actionable --

16 MS. VACCARINO: Yeah.

17 THE COURT: -- then petition The Court.

18 MS. VACCARINO: Okay. So then that's the protocol is
19 that my -- the accountant will be individually liable and the
20 attorney will fo -- individually sign her own confidentiality
21 --

22 THE COURT: Right.

23 MS. VACCARINO: -- agreement?

24 MR. SMITH: Your Honor --

1 MS. VACCARINO: Is that my understanding? Yes.

2 THE COURT: Yeah.

3 MS. VACCARINO: Thank you, Your Honor.

4 MR. SMITH: As indicated in the pleadings, Your Honor,
5 Mr. Stipp is under a confidentiality agreement that requires
6 anybody who reviews these tax returns to be jointly and
7 severally liable for their distribution. He would be in
8 violation of his own agreement if, in fact, Ms. -- and this
9 motion cannot be brought by the -- the client. This is
10 brought by Ms. Vaccarino --

11 MS. VACCARINO: Offer of proof, Your Honor.

12 MR. SMITH: -- to protect herself.

13 MS. VACCARINO: Where is that confidentiality agreement?
14 This is the first time that came up in seven months. It's
15 always delay --

16 THE COURT: All right. Here we go.

17 MS. VACCARINO: -- delay, delay.

18 THE COURT: Here we go.

19 MS. VACCARINO: I don't even -- if I'm going to hire
20 someone, I trust them. But I can't believe that we -- they
21 want -- they're saying joint and several liability, but they
22 refuse to produce the document that compels you --

23 THE COURT: I don't have --

24 MS. VACCARINO: -- to order that.

1 THE COURT: I don't have any --

2 MS. VACCARINO: Sitting here today you don't have that.

3 THE COURT: Counsel, I have no authority to compel Aquila
4 to do anything other than what they want to do. And so --

5 MS. VACCARINO: He's an owner.

6 THE COURT: -- I'm going to give you --

7 MS. VACCARINO: He's been court ordered.

8 THE COURT: Here's what I'm going to do.

9 MS. VACCARINO: Thank you, Your Honor.

10 THE COURT: You're authorized to obtain the records.

11 He's -- Defendant's not going to give them to you. He's got
12 no obligation to tenure them to you at all.

13 MS. VACCARINO: He already gave them to the Judge.

14 THE COURT: No. No. No. I don't care. You do -- you
15 do your discovery request to Aquila. You sign whatever
16 documents they require. Yeah?

17 MS. VACCARINO: It's defunct, Your Honor.

18 THE COURT: Well, that's fine.

19 MS. VACCARINO: Well --

20 THE COURT: That's who you -- now, Counsel, that's who
21 you're going to get your documents from.

22 MS. VACCARINO: I don't have a -- okay.

23 THE COURT: I can't compel them.

24 MS. VACCARINO: Can I -- no, wait. Wait. Wait. Wait.

1 I want to be clear, Your Honor. Because now we're

2 THE COURT: Whoever -- there's --

3 MS. VACCARINO: -- we're going back three steps --

4 THE COURT: Even though it's defunct, it's got somebody
5 who --

6 MS. VACCARINO: You said that --

7 THE COURT: -- maintains the records.

8 MS. VACCARINO: Wait a minute. Shh. Please, Your Honor.
9 It says right here that The Court had no objection -- Mitchell
10 has no objection to the request. I'm just saying on your own
11 orders signed by Judge Sullivan --

12 THE COURT: Counsel, they're saying --

13 MS. VACCARINO: -- on October 6th --

14 THE COURT: Counsel, they're saying that the company is
15 requiring you to sign that. You don't want to --

16 MS. VACCARINO: So I need to sign --

17 THE COURT: -- agree with that --

18 MS. VACCARINO: I need to sign something --

19 THE COURT: -- you get them -- Counsel --

20 MS. VACCARINO: -- that I'm liable for the accounting.

21 THE COURT: -- listen.

22 MS. VACCARINO: I will do that so I can get the records
23 tomorrow.

24 THE COURT: Okay.

1 MS. VACCARINO: Because that's the one way to cut through
2 all the chase.

3 THE COURT: You do that. You get --

4 MS. VACCARINO: I will be liable for our accountant -

5 THE COURT: You get your records --

6 MS. VACCARINO: -- and let him prove it.

7 THE COURT: -- from Aquila, and if they don't want to
8 disclose them to you, if you don't like their confidentiality
9 agreement, haul them before the Discovery Commissioner and
10 deal with it there.

11 MR. SMITH: Judge, if I --

12 MS. VACCARINO: Your Honor, I can't produce -- I can't
13 subpoena to a defunct entity. And he's already been required
14 to --

15 MR. SMITH: Maybe I --

16 MS. VACCARINO: -- release it, and he did.

17 MR. SMITH: I think I can help the situation, Your Honor,
18 if I may suggest something. I think what Judge Sullivan had
19 intended was that Ms. Vaccarino and her expert would have the
20 opportunity to review them upon the execution of a
21 confidentiality agreement. Ms. Vaccarino has indicated she's
22 willing to sign that confidentiality agreement. So my
23 understanding of the procedure would be then she would simply
24 go to Judge Sullivan's office or to the file clerk --

1 THE COURT: If she still ha -- if he still has the
2 records.

3 MR. SMITH: I'm pretty sure he does, Your Honor.

4 THE COURT: Because I don't have them.

5 MR. SMITH: And the reason I indicate this is because
6 this was a matter --

7 THE COURT: Right.

8 MR. SMITH: -- of due process. And since she reviewed --

9 THE COURT: So she either signs that and she can have
10 access to them --

11 MR. SMITH: Right.

12 THE COURT: -- or she can -- I'll give you an order that
13 says, Aquila has to -- you know, they have to produce them.

14 MR. SMITH: Well, he -- she's already agreed to sign the
15 agreement, so that should resolve the problem.

16 MS. VACCARINO: So if there's something not there, I can
17 still, even if it's defunct, issue -- if it's not there when I
18 get to Judge Sullivan's chambers --

19 THE COURT: There's got to --

20 MS. VACCARINO: -- I can issue a discovery --

21 THE COURT: -- be somebody that maintains the records.

22 MS. VACCARINO: -- subpoena? Okay.

23 MR. SMITH: Well, again, Your Honor, if I may. Judge
24 Sullivan specifically addressed this issue and denied any

1 additional discovery now on four separate occasions. So I
2 would suggest to Your Honor that what Judge Sullivan intended
3 and what is contained in the clear text of his order was that
4 she would have an opportunity to review these tax returns and
5 no others. And the reason for that is that as you can see
6 from this -- this proceeding, it's pretty litigious. The
7 Court specifically limited any right of additional discovery.

8 MS. VACCARINO: Let me see what's there, Your Honor.

9 MR. SMITH: And so, if I may --

10 MS. VACCARINO: And we'll come back --

11 THE COURT: What's your concern about her asking for
12 discovery from a defunct and dead organization?

13 MR. SMITH: I don't have concern about that specific
14 instance.

15 THE COURT: Okay.

16 MR. SMITH: But --

17 THE COURT: Then let -- let her spin her wheels and throw
18 her shovel wherever she wants to. I mean, that's it.

19 MR. SMITH: Okay.

20 THE COURT: If she signs the -- if she signs it, she gets
21 it from wherever it's at --

22 MS. VACCARINO: Okay.

23 THE COURT: -- in the black hole at Family Court.

24 MR. SMITH: I think they're there.

1 MR. STIPP: (Chuckle.)

2 MR. SMITH: I think they're in Family Court.

3 THE COURT: If -- if -- you know what? My honest belief
4 is that they've disappeared --

5 MS. VACCARINO: So bas --

6 THE COURT: -- and you will never find -

7 MR. SMITH: Please, no.

8 THE COURT: -- them.

9 MR. STIPP: (Chuckle.)

10 MR. SMITH: Because, again, our client is under a
11 confidentiality agreement. Those --

12 THE COURT: I mean, I'm just -- I'm -- well, I'm not
13 saying that --

14 MR. SMITH: (Chuckle.)

15 THE COURT: I'm saying that they're going to be destroyed
16 or --

17 MR. SMITH: Please, Judge. Don't tell us that.

18 THE COURT: We had a flood down there a couple weeks ago.
19 I mean, come on.

20 MR. SMITH: Right.

21 THE COURT: The reality is that they're -- there's a good
22 possibility.

23 MR. SMITH: Okay.

24 THE COURT: The case has been reassigned a couple of

1 times that those documents are not going to be able to be
2 produced.

3 MR. SMITH: Okay. So my understanding -- okay.

4 THE COURT: And if not -- I mean, if your client wants to
5 produce them for her and she's willing to sign his
6 confidentiality, then go right ahead.

7 MR. SMITH: Okay. So my --

8 THE COURT: Otherwise, she's -- I mean, she's entitled to
9 those documents and she can go after -- you know, I'm --

10 MR. SMITH: This is the sort --

11 THE COURT: -- just those documents.

12 MR. SMITH: This is the sort of thing I want to make
13 specifically clear. Because Ms. Vaccarino has this habit of
14 whispering things under her breath in this thing and then
15 saying that that's part of the order. What she indicated --

16 MS. VACCARINO: Objection, Your Honor.

17 THE COURT: Look.

18 MR. SMITH: -- was that if I don't find --

19 MS. VACCARINO: Let's not make personal attacks.

20 MR. SMITH: -- if I don't --

21 MS. VACCARINO: I understand your order.

22 THE COURT: Stop it.

23 MR. SMITH: -- if I don't find --

24 THE COURT: She's --

1 MS. VACCARINO: Excuse me.
2 THE COURT: Right. If --
3 MR. SMITH: It's just the two -- two tax returns,
4 correct? I'm sorry, Your Honor.
5 THE COURT: That's it. That's it.
6 MR. SMITH: Okay. Very good.
7 THE COURT: Strictly 2007 and 2008 tax returns for
8 Aquila.
9 MS. VACCARINO: Thank you.
10 THE COURT: That's it.
11 MS. VACCARINO: And because all orders have to state the
12 time in which to comply with them or someone might not do so,
13 I'm going to ask that if I can't find them in the black hole
14 by this Friday that Mitchell has an affirmative obligation to
15 find them and produce them upon my office. I will sign that
16 confidentiality tomorrow. I just --
17 THE COURT: No, Counsel --
18 MS. VACCARINO: -- want a time frame.
19 THE COURT: -- he doesn't have an affirmative obligation.
20 MS. VACCARINO: Why not, if it's not there?
21 THE COURT: If he can't find them down there --
22 MS. VACCARINO: Then subpoena them?
23 THE COURT: then you can get them from the source.
24 MS. VACCARINO: Fine. Maybe --

1 THE COURT: Get them from the source, and then you can
2 hash it --

3 MS. VACCARINO: Thank you.

4 THE COURT: -- out with them --

5 MS. VACCARINO: I will.

6 THE COURT: -- whatever confidentiality agreement you
7 want to sign.

8 MS. VACCARINO: Okay. Thanks, Your Honor.

9 THE COURT: But only those -- that's it. Those two
10 items.

11 Now, as far as Dr. Lenkeit, Counsel, I think I re --
12 specifically stated that I wasn't appointing him as a master.
13 I'm not sure why he wouldn't -- why he shouldn't have access
14 to Dr. Paglini's report.

15 MS. VACCARINO: If I may address. It's not upon my
16 motion and the most important issue is you ordering these
17 healthcare -- so we'll save that for last. But, Your Honor,
18 my concern is that I filed an order -- and I've never done
19 this -- a request in a motion asking if there's a certain
20 protocol with orders because --

21 THE COURT: Counsel -

22 MS. VACCARINO: Dr. Pag --

23 THE COURT: -- have a seat. Have a seat. I'm driving
24 the ship.

1 MS. VACCARINO: All right.

2 THE COURT: Okay?

3 MS. VACCARINO: You're with us on this. You want to --

4 THE COURT: And I'm going to drive it the way I want to
5 drive it.

6 MS. VACCARINO: Thank you, Your Honor.

7 THE COURT: I appreciate your input.

8 MS. VACCARINO: Thank you, Your Honor.

9 THE COURT: But --

10 Mr. Smith --

11 MR. SMITH: Yes.

12 THE COURT: -- is there any reason that Mr. Lenkeit
13 shouldn't have access to Paglini's report?

14 MR. SMITH: We believe, Your Honor, as indicated in the
15 -- our opposition, that Ms. -- and in a letter that we sent to
16 The Court with the particular order, that Ms. Stipp's design
17 was to use Dr. Lenkeit as yet another forum to resolve what
18 she believes are contested issues.

19 I didn't believe that was the design of This Court.
20 What I heard The Court say was, I was tired of the conflict,
21 you're destroying your children, in essence, and that what you
22 should attempt to do is to mediate through Dr. Lenkeit because
23 he has the education that will help you to -- through the
24 issues associated with your ability to agree on the care for

1 the child. If you are unable to agree, then Dr. Lenkeit could
2 take whatever steps necessary to file a report. But that
3 report would not be findings of a 53 Master --

4 THE COURT: Right.

5 MR. SMITH: -- but simply some insight to The Court as to
6 the reasons why the parties were unable to agree.

7 That's how I understood your order; that's how the
8 order reads. What we didn't want to see happen was precisely
9 what did happen immediately after the hearing. And that was
10 the attempt to give Dr. Lenkeit every pleading that had ever
11 been filed --

12 THE COURT: No. No. We're not talk --

13 MR. SMITH: -- in this matter.

14 THE COURT: I'm not talking about pleadings. I'm talking
15 about specifically Paglini's report.

16 MR. SMITH: The issue is, as I understand it, Your Honor,
17 isn't what Dr. Paglini has found or did not find. The issue
18 is whether the parties can agree on appropriate care for this
19 child. And that's a process that The Court's interest is to
20 make sure the parties can communicate and agree. As stated by
21 Ms. Stipp, she's attended the UNLV course, and apparently
22 she's gained some insight from that. Mr. Stipp has gone
23 through the course with Jack Cathey.

24 Hopefully, after attending those courses, I think it

1 was your intent, Judge, again, to send them to those courses,
2 put them together in a context where they could agree as
3 opposed to anybody imposing upon them their design as to how
4 the child should be treated.

5 THE COURT: All right. Here's --

6 MS. VACCARINO: He hasn't answered your question, Your
7 Honor.

8 THE COURT: Yeah, I -- I know.

9 MS. VACCARINO: And all I asked you was this. Can I tell
10 --

11 THE COURT: And -- listen.

12 MS. VACCARINO: -- you this? October 19th there's a
13 letter from Dr. Lenkeit's office that asked both of them for
14 pleadings --

15 THE COURT: Listen.

16 MS. VACCARINO: -- and to fill out --

17 THE COURT: Right.

18 MS. VACCARINO: -- a questionnaire.

19 THE COURT: Here's the deal.

20 MS. VACCARINO: That questionnaire is really --

21 THE COURT: If Dr. Len -- hey.

22 MS. VACCARINO: -- lengthy.

23 THE COURT: If Dr. Lenkeit requests pleadings or reports,
24 Dr. Lenkeit is to be provided with pleadings and reports.

1 Anything that he requests, he is to be granted. If there's
2 something that you believe is protected by privilege or
3 something, if there's some other issue, you file an objection
4 to that specific request and we'll deal with it. And we could
5 probably deal with it telephonically between Counsel and I.
6 But the items that Lenkeit desires, let him have it. Come on.
7 Lenkeit -- he's smart enough. He's -- he's seen what's going
8 on here and potentially worse. And I think he can cut through
9 the crap and limit the -- I don't think he's going to focus on

10 ---

11 MR. SMITH: Judge, you're the boss. And we're going to
12 do -- but I think -- I think, clearly your design was that
13 these parties wouldn't use him as a second judge.

14 THE COURT: No, I'm not --

15 MS. VACCARINO: We're not. We're not, Your Honor. He
16 needs background to see what they're disagreeing about.

17 THE COURT: I --

18 MS. VACCARINO: And I don't -- I've never --

19 THE COURT: I agree.

20 MS. VACCARINO: Okay. Thank you.

21 THE COURT: I agree with you. He need -- he's entitled
22 to have the background to see what the -- I hope he's going to
23 be able to address the root of the problem, and he's going to
24 convert -- you know, wink his magic wand and everybody's going

1 to be a better person. But -- you know.

2 MS. VACCARINO: Your Honor, my client did send an email
3 to Mr. Stipp saying, let Dr. Lenkeit resolve this.

4 THE COURT: There's no -- I'm not --

5 MS. VACCARINO: We -

6 THE COURT: There's nothing I want to know or I want to
7 hear from you right now.

8 MS. VACCARINO: Okay.

9 THE COURT: Thank you.

10 MS. VACCARINO: Thank you, Your Honor.

11 THE COURT: All right. Now, we had an issue regarding --
12 do we still have an issue regarding attorney's fees?

13 MS. VACCARINO: Yeah, there's a bunch of deferred issues
14 that you were waiting for Judge Sullivan's decision and our
15 return date that's now been severely delayed because Dr.
16 Lenkeit still wants to speak to --

17 THE COURT: So the only attorney's --

18 MS. VACCARINO: -- Counsel.

19 THE COURT: -- fees issue is me awarding additional fees,
20 correct?

21 MS. VACCARINO: If you would -- on our underlying motion,
22 Your Honor, which we filed in October, we requested that Mia
23 get healthcare and then we go to a parenting coordinator. We
24 believe that Mitch -- that's why we filed these additional

1 motions to stall the process. I also have a submission of a
2 proposed amended order for your review because there were
3 things -- you even crossed something out that said, denied,
4 and wrote, deferred. And there was a lot of language in
5 there. Like if they disagree on something or agree, they have
6 to prepare the order and that Lenkeit would get no pleadings,
7 stuff that was never ordered.

8 So I do have a proposed -- and I'd ask you, I've
9 addressed that in my motion and I'd ask you to take at least
10 that under advisement. I gave them the submission. But their
11 order as it stands is not accurate. What you deferred was --
12 you said you'd pick a doctor for Mia if they couldn't. We
13 expected to be back here with a report by January 4th and
14 they're not close to there because, in our opinion, Mitch
15 delayed that process because he didn't want to give up the
16 pleadings. He wrote Dr. Lenkeit on the 16th and said, I felt
17 it more prudent even though you had --

18 THE COURT: So --

19 MS. VACCARINO: -- a referral order to wait.

20 THE COURT: So what are you talking --

21 MS. VACCARINO: So I want you to --

22 THE COURT: I need to -- I need to pick a doctor for the

23 --

24 MS. VACCARINO: For Mia.

1 THE COURT: -- for Mia?

2 MS. VACCARINO: Dr. De Simone (phonetic herein) had
3 referred --

4 MR. SMITH: Wait. Wait. Wait. No. No.

5 MS. VACCARINO: Yeah, you said --

6 MR. SMITH: No. No. Wait.

7 MS. VACCARINO: -- you would if --

8 MR. SMITH: Oh my God.

9 MS. VACCARINO: -- they didn't agree. If they couldn't
10 work --

11 THE COURT: Hold on. Hold on. Let's just figure out --

12 MS. VACCARINO: It's in your --

13 THE COURT: --- what the iss -- what are the other issues,
14 Counsel, that I'm supposed to address? Doctor for Mia?

15 MS. VACCARINO: A doctor for Mia, you said you'd defer on
16 the no contact order with Cody and counseling for Ethan.

17 MR. SMITH: No, he did not.

18 MS. VACCARINO: Yes, he did. I have it in a transcript.
19 It's filed in the record if you want to take it under
20 advisement. The transcript is filed from your hearing. They
21 ordered it. We ordered part --

22 MR. SMITH: Just this order --

23 MS. VACCARINO: -- of it too.

24 MR. SMITH: -- has been entered.

1 MS. VACCARINO: In addition, Your Honor --

2 MR. SMITH: There is no 60(b) motion to --

3 THE COURT: Hold on. Hold on.

4 MR. SMITH: -- to modify the order.

5 THE COURT: Let's just --

6 MR. SMITH: All right.

7 THE COURT: Let her -- let's get it out.

8 MS. VACCARINO: It was recently entered. I could file a
9 motion to amend, but I'm asking you to just ---

10 THE COURT: Doctor for Mia, no contact with Cody,
11 counseling for Ethan.

12 MS. VACCARINO: Attorney's fees. And we --

13 THE COURT: Huh?

14 MS. VACCARINO: Attorney's fees and we ask for an order
15 to show cause to issue against Mitch for failing to cooperate.
16 I have emails where he ignored her for ten days when she said,
17 can we call Dr. Lenkeit and ask him if he wants pleading.
18 That's our first --

19 THE COURT: Anything else, Counsel?

20 (WHEREUPON, MS. VACCARINO TURNS AND TALKS TO HER CLIENT.)

21 MS. VACCARINO: Well, if you're going to address --
22 because if he doesn't want to get counseling that she thinks
23 because of the problems that have gone on in this case, that
24 the children are -- need counseling. So she would like to go

1 for herself for the adjustment issues because of what's being
2 said. As she put in her affidavit recently, he told -- we --
3 she took tapes of the child's conduct -- exhibiting the
4 conduct of the OCD, et cetera that she thought might be going
5 on.

6 Mitch went home after the last hearing on October
7 6th and told, be careful your mom's taping you, so if your --
8 if she's taping you, act norm -- and it's in my client's
9 affidavit.

10 THE COURT: All right.

11 MS. VACCARINO: So we want you to address that now.

12 THE COURT: What do you want me to address?

13 MS. VACCARINO: If you look at our affidavit and the
14 twelve exhibits --

15 THE COURT: You want to arrest (sic) just taping or
16 telling the child to be aware because she's being taped?

17 MS. VACCARINO: Allow Mia's healthcare to proceed and her
18 -- you said you would do that if they couldn't still agree,
19 and allow the child find evaluation to finish because they're
20 just waiting on -- there was a final recommendation. On the
21 final recommendation, it's attached and filed three days ago
22 because we got their -- their opposition late. It says that
23 it was recommended that Mia go to an individual psychological
24 assessment. You said if they couldn't agree in parenting

1 coordination --- they can't even agree on giving pleadings up
2 or --

3 THE COURT: Right.

4 MS. VACCARINO: -- confidentiality, you know they're not
5 going to agree on that. I'm asking you to order that today.
6 That's in the child's best interests.

7 THE COURT: Now, what kind of a doctor am I supposed to
8 find for Mia?

9 MS. VACCARINO: Dr. De Simone had recommended --

10 THE COURT: No. What kind ---

11 MS. VACCARINO: That's the pediatrician --

12 THE COURT: What kind of a doctor?

13 MS. VACCARINO: -- since birth.

14 THE COURT: You want me to appoint a pediatrician?

15 MS. VACCARINO: A neuro -- a neuropsychologist. Dr.
16 Cavanagh is a neuro --- the neuropsychologist. Because they do
17 a brain scan on top of other things. They don't just treat
18 the symptom, they try and see if there's something else like
19 in the brain.

20 THE COURT: And she works at Touro?

21 MS. STIPP: She's --

22 THE COURT: No. No. I don't care.

23 MS. VACCARINO: She -- well, Your Honor, you could have
24 them -- you know, you can have us select three --

1 THE COURT: Look --
2 MS. VACCARINO: or propose three --
3 THE COURT: -- here's the deal.
4 MS. VACCARINO: -- and they can pick one or you can pick
5 one.
6 THE COURT: No. Listen. Listen. Here's where we're at.
7 MS. VACCARINO: She needs to see a neuro and a
8 psychologist.
9 THE COURT: Do you want to address any of these issues,
10 Mr. Smith?
11 MR. SMITH: I suppose if you're going to dial them, no.
12 But, Judge, I mean, this record has been so misstated by Ms.
13 Vaccarino I just --
14 THE COURT: Well, now, Counsel --
15 MR. SMITH: I don't know where to start.
16 THE COURT: -- Counsel, come on. This -- this whole
17 thing has been a complete cluster from the moment the divorce
18 decree was entered. I mean, from the moment. It's been -- I
19 mean, we've had how many motions filed and gone back and
20 forth. And --
21 MS. VACCARINO: Ahmen Clinic, Your Honor. We could go to
22 Newport and do it. I mean, the Ahmen Clinic is great and she
23 would drive there.
24 MR. SMITH: Look --

1 THE COURT: Counsel --
2 MS. VACCARINO: All right.
3 THE COURT: -- have a seat.
4 MS. VACCARINO: Okay, Your Honor. Just that you didn't
5 like Touro. So...
6 MR. SMITH: If I may address --
7 THE COURT: Do you want to address these issues, Mr.
8 Smith?
9 MR. SMITH: I do. Let me just note for the record,
10 that's not why we're here today.
11 THE COURT: I know.
12 MR. SMITH: But I will --
13 THE COURT: I know.
14 MR. SMITH: Okay.
15 THE COURT: But --
16 MR. SMITH: Let's talk about Mia.
17 THE COURT: But when we leave here today --
18 MR. SMITH: You want some resol --
19 THE COURT: -- nobody's coming back. And if they do, God
20 help them if they don't have what I consider to be a damn good
21 and legitimate legal reason to be here. Because then, oh boy,
22 are there going to be sanctions and attorney's fees. Okay?
23 So --
24 MR. SMITH: Let me first --

1 THE COURT: -- let's get it done today so nobody leaves
2 here thinking, gee, my issues weren't addressed.

3 MR. SMITH: Okay. Let's first address the attorney's
4 fees issues that were raised by Ms. Vaccarino.

5 THE COURT: Well, why don't we start with the doctor for
6 Mia.

7 MR. SMITH: Okay. As you recall, Your Honor, the reason
8 why you presented the parenting coordinator was so that
9 parties had an opportunity to address the care of Mia. I
10 presume now that --

11 THE COURT: I agree. And that's going to be my order.
12 They're going to try and work that out through Lenkeit. If
13 they can't work it out through Lenkeit, then they can file a
14 motion on that.

15 MS. VACCARINO: Can we have a time frame?

16 THE COURT: No.

17 MS. VACCARINO: Like thirty days --

18 THE COURT: No.

19 MS. VACCARINO: -- from now, Your Honor.

20 THE COURT: No. No. No time frame. Well, yeah, I'll
21 give you a time frame.

22 MS. VACCARINO: Because this --

23 THE COURT: I'll give you a time frame. Ninety days from
24 today's date. No sooner than ninety days from today's date am

1 I going to entertain another motion on that issue.

2 Number two, contact with Cody.

3 MR. SMITH: Your Honor, you've already ruled on that.
4 You didn't defer anything. You denied it. Your specific
5 statement in the record was in -- we can go to the transcript
6 on this -- was that, you denied it, but if they had additional
7 evidence they could present that additional evidence in a
8 subsequent motion. They have not done so other than a (sic)
9 affidavit I received last night in which nothing was
10 corroborated other than the unsubstantiated statements of Mia.
11 And let me note that CPS investigated this matter. They found
12 it unsubstantiated. They interviewed all parties involved.

13 THE COURT: No contact with Cody is further denied.

14 Counseling with Ethan?

15 MR. SMITH: He's --

16 THE COURT: You don't even need to address that.

17 MR. SMITH: -- three years old.

18 THE COURT: He's a three year old.

19 MR. SMITH: Yeah.

20 THE COURT: No -- no counseling for Ethan.

21 Okay. Attorney's fees.

22 MR. SMITH: Your Honor, this is now the second motion for
23 rehearing that's been filed on the issue of discovery and
24 attorney's fees. We -- you have denied that motion. Those

1 motions that were originally filed, as you indicated in your
2 order and even in the proposed order that Mrs. Vaccarino wants
3 to provide, those were issues that were still before Judge
4 Sullivan. And as you started this hearing today, you clearly
5 stated those were mooted by the orders of Judge Sullivan.

6 In other words, we never should have been here on
7 issues that were still under submission to Judge Sullivan.
8 Even having said that at the initial hearing, she files yet
9 another motion, a second motion for rehearing, on a matter
10 that is still before Judge Sullivan, the attorney's fees issue
11 which he has now resolved in Mitch's favor. And let me note
12 that not only did he resolve the first motion in his favor --
13 which was a form of a counter motion, he resolved that in his
14 favor -- he resolved the motion on the rehearing in his favor.
15 He resolved the motion for custody in his favor. And the last
16 motion you resolved in his favor, in that, you found that
17 these matters were still under submission by Judge Sullivan.

18 I can possibly imagine how Counsel has the temerity
19 to stand up and say she is entitled to attorney's fees.

20 MS. VACCARINO: Objection, Your Honor.

21 THE COURT: I note that --

22 MS. VACCARINO: He's confused --

23 MR. SMITH: I note that --

24 MS. VACCARINO: He's confuse --

1 MR. SMITH: I note that on this -- the motion for
2 attorney's fees under the present action is that she's
3 requesting attorney's fees because Mitch wouldn't provide her
4 a confidentiality agreement that she accepted.

5 Let me note, Your Honor, this is how that went. And
6 this is clear in the record of this case. We emailed a
7 confidentiality agreement within a few days of the hearing
8 before Judge Sullivan. At that time, Mr. Prokopius, who was
9 then counsel, ignored that email for over two-and-a-half
10 months. After the period of two-and-a-half months he then
11 received a order from Judge Sullivan denying his motion for
12 the reconsideration on the hearing. And then, again,
13 requested then -- and then stated then that there was a
14 problem with us getting him a copy of that order. We proved
15 both by email verification and by verification of fax that he
16 had misrepresented those facts to the Judge.

17 So, Judge, we have had a confidentiality agreement
18 before Christina's counsel --

19 MS. VACCARINO: Your Honor, can I object?

20 MR. SMITH: -- for about --

21 MS. VACCARINO: Because I don't know where he's going
22 with this.

23 THE COURT: No.

24 MS. VACCARINO: I've been given no leeway to say anything

1 upon my motion. And he's -- he's mixing seven different
2 issues together. I asked for attorney's fees on all --

3 MR. SMITH: Judge --

4 MS. VACCARINO: -- underlying motion --

5 MR. SMITH: -- I mean, I really --

6 MS. VACCARINO: -- on October 5th.

7 MR. SMITH: -- thought we all had an opportunity --

8 MS. VACCARINO: I didn't --

9 MR. SMITH: -- to speak our piece.

10 THE COURT: Yeah, your motion from October 5th --

11 MS. VACCARINO: That's what -- I'm asking for attorney's
12 fees because we asked for a parenting coordinator. You
13 agreed. Now, we came back and said we'd --

14 MR. SMITH: Judge --

15 MS. VACCARINO: -- like him to get pleadings.

16 MR. SMITH: -- as you --

17 MS. VACCARINO: You agreed.

18 THE COURT: Your -- your request for attorney's fees from
19 October 5th is denied. Okay?

20 MS. VACCARINO: What about their counter motion?

21 MR. SMITH: In regard to the --

22 THE COURT: You were already granted permission to get
23 those attorney's fees. You're not going to be granted any --
24 that's -- no. And there's -- I don't see anywhere in here

1 where anybody has requested an order to show cause. So...

2 MS. VACCARINO: Yeah --

3 THE COURT: Where's that? Show me.

4 MS. VACCARINO: We're going kind of far -- if you look at
5 my motion filed October 5th, all the issues we addressed were
6 deferred parenting coor --

7 THE COURT: Well, that October 5th --

8 MS. VACCARINO: -- depending parenting coordination.

9 THE COURT: -- motion isn't the one I'm looking at today,
10 is it?

11 MR. SMITH: No, Your Honor.

12 MS. VACCARINO: Your Honor, it's on a return.

13 THE COURT: No.

14 MS. VACCARINO: It's because he didn't comply with your
15 interim orders --

16 THE COURT: Denied.

17 MS. VACCARINO: -- so we can get --

18 THE COURT: The order to --

19 MS. VACCARINO: -- the return date.

20 THE COURT: -- show cause denied.

21 MS. VACCARINO: And their -- and their --

22 THE COURT: The attorney fees previously awarded -- that
23 Sullivan awarded --

24 MS. VACCARINO: If I may --

1 THE COURT: -- of -- for four thousand five hundred and
2 ninety dollars, I'm not going to wait -- make you wait sixty
3 or ninety days.

4 MS. VACCARINO: Do you have jurisdiction on that?

5 THE COURT: That amount is --

6 MS. VACCARINO: Because they said you don't have
7 jurisdiction.

8 THE COURT: That amount is reduced to judgment. If it's
9 not paid in full within the sixty days, go ahead and file your
10 -- you know --

11 MR. SMITH: Well, that is the judgment.

12 THE COURT: I'll make --- give you an order.

13 MR. SMITH: I think he has entered --

14 THE COURT: Yeah. Sixty days --

15 MR. SMITH: -- that judgment, Your Honor.

16 In regard to the -- now the question that faces you
17 today is the motion that's before you today -- getting back to
18 that motion --

19 THE COURT: The motion that's before me today is -- is --

20 MS. VACCARINO: Is granted in part, Your Honor.

21 THE COURT: What?

22 MS. VACCARINO: I asked you --

23 THE COURT: What is?

24 MS. VACCARINO: We -- we -- the pleadings to go to --

1 THE COURT: A new trial denied. Amend findings denied.

2 MS. VACCARINO: If I may, Your Honor --

3 THE COURT: Recision reconsideration --

4 MS. VACCARINO: -- please?

5 THE COURT: -- modification denied. Stay of 10/13/10

6 order denied. Immediate access to tax records --

7 MS. VACCARINO: Granted.

8 THE COURT: -- that was already -- that was --

9 MS. VACCARINO: I can't get it --

10 THE COURT: -- already granted.

11 MS. VACCARINO: -- without you ruling upon it.

12 THE COURT: No.

13 MS. VACCARINO: And then -- and, Your Honor --

14 THE COURT: There's no sanctions -- okay. So, wow --

15 MS. VACCARINO: And I --

16 THE COURT: -- you won one. Sorry --

17 MS. VACCARINO: You know what, Your Honor --

18 THE COURT: -- you're not the prevailing party.

19 MS. VACCARINO: What about --

20 THE COURT: Compel Dad to cooperate --

21 MS. VACCARINO: I can't believe this.

22 THE COURT: -- in commencing sessions with the parenting
23 coordinator.

24 MR. SMITH: Your Honor, we have signed --

1 MS. VACCARINO: What did I do --

2 MR. SMITH: There's a --

3 MS. VACCARINO: -- to Your Honor to -- today?

4 MR. SMITH: If I --

5 MS. VACCARINO: Because he's still -- wait. If I may,
6 this is upon my motion.

7 MR. SMITH: No.

8 MS. VACCARINO: You're just --

9 MR. SMITH: I haven't --

10 MS. VACCARINO: I guess I may not.

11 MR. SMITH: -- finished.

12 THE COURT: Have a seat, Mr. Smith. Let's -- let's hear
13 from Ms. Vaccarino.

14 Anything else, Ms. Vaccarino?

15 MS. VACCARINO: He already address -- my client -- we
16 came in today because we wanted you to address -- you said, if
17 these parents can't get along, that when you came back today
18 you were going to figure out who was doing the wrong thing.
19 Well, when we came back on the return hearing, I couldn't even
20 get into parenting coordination, because I feel like in this
21 case -- when I got in the case and you said, you guys got to
22 get along, this case is going to be here forever.

23 When she asked me, he's not submitting, he won't let
24 us submit the pleadings, what should you do. I said, write

1 him an email and ask him to contact Dr. Lenkeit for a phone
2 conference so he could resolve your first dispute is, should
3 we even give him pleadings. You've ruled in our favor on
4 that. That's really -- otherwise, it would never be moving
5 forward. Dr. Lenkeit wants to talk to Counsel the day before
6 which I haven't had to talk to a parenting coordinator ever
7 before they started.

8 So we come into court, Your Honor. We also asked in
9 our -- in our motion that they stop submitting orders that
10 don't comport with the record. And I have a submission of my
11 proposed amended order. And what I'm saying is I feel like
12 I've had -- counseled my client. She's -- I don't know how
13 far he's into Jack Cathey's class. She has one class left and
14 she's done. I don't know when he started his if you would
15 want to canvass him. But I think since we left court last
16 time, Your Honor, if you look at his letters, he is saying --
17 he won't even respond to her for ten days when she says, hey
18 let's forget about the pleadings, let's just make our first
19 appointment.

20 THE COURT: Okay.

21 MS. VACCARINO: He still ignores her.

22 THE COURT: Counsel, that's why they're going to the
23 parenting coordinator. Is that --

24 MS. VACCARINO: But you're just saying --

1 THE COURT: I mean, is that --

2 MS. VACCARINO: --- denied, denied, woo you won one, like
3 my motion's frivolous.

4 THE COURT: Is that why I'm supposed to give you
5 attorney's fees?

6 MS. VACCARINO: But I'm asking you today to look at the
7 party that's been stopping any progress in this case. You
8 agreed that why can't they have -- I don't understand. Why
9 can't --

10 THE COURT: Counsel, so all this is about attorney's
11 fees, right?

12 MS. VACCARINO: No, this is --

13 THE COURT: I mean, let's get it straight. We're going
14 to sit here and we're going to piss away another two hours of
15 court time on attorney's fees.

16 MS. VACCARINO: I'm not pissing it away. What I'm --
17 with all due respect, Your Honor, my client's already pissed
18 away enough money.

19 I want -- this is about you please submitting and
20 ratifying a proper order saying that opposing counsel has to
21 give me -- afford me more than forty-eight hours after waiting
22 twelve days to show me his proposed order. Your Honor,
23 there's been abuse of process. And then he walks out without
24 any consequence when, technically, the biggest issue facing

1 her -- they said you didn't have jurisdiction to look at
2 whether or not Judge Sullivan should have looked at financial
3 disclosure forms and whether or not he should now rule upon
4 prevailing party when we still have access to the tax returns.

5 So he said you didn't have jurisdiction, now he says
6 you do. That's a minor issue to us. We wanted you to just at
7 least look at my client and say, she doesn't think he's going
8 to agree on the color of the sky with her. That's why we
9 wanted you to at least pick three people -- or let him pick
10 five people and you pick one of them that's qualified to let
11 Mia get treatment.

12 MR. SMITH: In other words --

13 MS. VACCARINO: Now that -- that wasn't my biggest issue
14 for today. I know Rad got to go on and on and on about the
15 attorney's fees. She's wanted you -- because they're not -- I
16 don't know how -- we're going to be back here in ninety days
17 and I honestly think that that kid will still go without
18 treatment. And since I met this woman last June, they both
19 filled out -- if you take the time to defer on that because I
20 don't even care, grant her no fees, Your Honor, and let
21 everybody go home, and the next time stip to what you said and
22 find one thing wrong and sanction someone ten grand.

23 But he filled out his own form in July to Child Find
24 that showed a bunch of stuff --

1 What exhibit is that?

2 MS. STIPP: Serious concerns --

3 MS. VACCARINO: A bunch of concerns with Mia. And now he
4 won't address them. And he's just like fighting in court.
5 That was my biggest issue I wanted you to rule on today. And
6 we -- I just said, you're the boss. I sat down. No, you did.
7 You said -- so I asked you. You said let me --

8 THE COURT: Counsel?

9 MS. VACCARINO: I didn't mean --

10 THE COURT: Where is --

11 MS. VACCARINO: -- any disrespect to you, Your Honor.

12 THE COURT: Hold on.

13 MS. VACCARINO: I just wanted you to understand that
14 that's --

15 THE COURT: You've --

16 MS. VACCARINO: -- her biggest concern sitting here
17 today.

18 THE COURT: You need to understand. Most of this stuff
19 has already been heard by Judge Sullivan.

20 MS. VACCARINO: No, you deferred on Mia's new

21 THE COURT: No. No. No.

22 MS. VACCARINO: -- healthcare issues.

23 THE COURT: Listen. Most of this stuff has already been
24 heard by Judge Sullivan.

1 MS. VACCARINO: What most? What part of Mia's new onset
2 in July after the last May hearing --

3 THE COURT: Counsel?

4 MS. VACCARINO: -- was heard by Judge Sullivan?

5 THE COURT: I -- you know --

6 MS. VACCARINO: I just --

7 THE COURT: -- I don't think the child needs treatment.

8 MS. VACCARINO: Why are you saying that now without --

9 THE COURT: Counsel --

10 MS. VACCARINO: How are you -- say that without a
11 hearing?

12 THE COURT: Look. The bottom line is --

13 MS. VACCARINO: You don't know that until you --

14 THE COURT: -- it's -- it's plain to know why the child
15 is screwed up. Okay? It's easy to see why.

16 MS. VACCARINO: She's licking and spitting. That's not
17 normal -- someone's messed up in the head. That child --

18 THE COURT: Oh, it is normal. Because she's got two
19 parents who are going to make her a complete basket case.

20 MS. VACCARINO: This is what he marked off --

21 THE COURT: All right.

22 MS. VACCARINO: -- the child's anxious. So if you're --

23 THE COURT: Okay. All right.

24 MS. VACCARINO: I'm just asking --

1 THE COURT: Great. Well --

2 MS. VACCARINO: -- you're not making a find --

3 THE COURT: You're saying he says that she's anxious; she
4 says she's anxious. They both apparently want the same thing.
5 Then they should be able to agree with Dr. Lenkeit, all right?
6 Thank you. Anything else, Counsel?

7 MS. VACCARINO: Are you going to -- I just would ask that
8 you allow me to file this. And if you want me to do it in
9 open court or I'll file it --

10 THE COURT: File what?

11 MS. VACCARINO: --- e-file it -- it's my submission of a
12 proposed amended order. If you would like to look at it --

13 THE COURT: Do you --

14 MR. SMITH: (Chuckle.)

15 THE COURT: I mean --

16 MS. VACCARINO: -- it's par -- it's part of my motion
17 that I filed ---

18 THE COURT: Okay.

19 MS. VACCARINO: -- last month.

20 THE COURT: Then it's part of the record already. Thank
21 you.

22 MS. VACCARINO: I didn't file it, but part of my motion
23 was requesting that we have proper orders submitted. I just
24 feel like I'm getting yelled at --

1 THE COURT: Okay.

2 MS. VACCARINO: -- when I --

3 THE COURT: Counsel, I'm going to allow you to prepare

4 the order from today. Okay?

5 MS. VACCARINO: Will you look at my proposed --

6 THE COURT: No.

7 MS. VACCARINO: -- amended order and consider striking

8 the parts of their order --

9 THE COURT: Why don't you --

10 MS. VACCARINO: -- that's not accurate?

11 THE COURT: -- submit it to chambers.

12 MS. VACCARINO: I will, Your Honor. I submitted it to

13 them. I'll file it in the record and I'll submit it. And you

14 can decide whether or not you think --

15 THE COURT: Yeah.

16 MS. VACCARINO: -- it's warranted.

17 THE COURT: I will.

18 MR. SMITH: Judge, I need --

19 THE COURT: I will.

20 MR. SMITH: -- to say a couple things for the record.

21 THE COURT: No.

22 MR. SMITH: We would object to the filing of any order --

23 THE COURT: I know.

24 MS. VACCARINO: Amended.

1 MR. SMITH: -- after the issuing of a find - of an order
2 without the proper motion --

3 THE COURT: She's going to send me an ex parte motion to
4 amend the order based on clerical errors, I think.

5 MS. VACCARINO: No, it's not clerical. It's just a
6 submission of a proposed amended order.

7 MR. SMITH: It's a completely ---

8 THE COURT: No, then don't --

9 MR. SMITH: -- substantively different motion --

10 THE COURT: Then don't submit it.

11 MR. SMITH: -- or order.

12 THE COURT: Don't submit it.

13 MS. VACCARINO: I'll just file it, Your Honor --

14 THE COURT: If there's errors --

15 MS. VACCARINO: -- to place this on the record.

16 THE COURT: If there's errors in the original order, then
17 you can file an ex parte order requesting that it be
18 corrected.

19 MS. VACCARINO: Correct?

20 THE COURT: Okay? If you're asking me to accept --

21 MS. VACCARINO: I'm asking --

22 THE COURT: -- an order that's -- anything other than
23 that, I don't want to see it; I don't want to hear about it.
24 Okay.

1 MS. VACCARINO: I will submit an order request.

2 MR. SMITH: Your Honor, there's -- in the decree of the
3 parties and incorporated in all these proceedings, there is a
4 prevailing party provision in regard to attorney's fees.

5 THE COURT: Right.

6 MR. SMITH: Even in this case, Your Honor, you have noted
7 correctly that the -- the order granting the -- Dr. Lenkeit
8 the right to interview the parties and help them address with
9 Mia was something that could not have occurred prior to this
10 filing of the motion on October 6th. So her contention that
11 somehow we had delayed the entry of a parenting coordinator
12 when that issue was still before Judge Sullivan and you so
13 found, is simply incorrect. What has happened here is we have
14 a repeated pattern of Christina, through Counsel, filing
15 motion after motion after motion, all of which have been
16 denied.

17 MS. VACCARINO: Objection.

18 THE COURT: Now your --

19 MR. SMITH: And, again --

20 THE COURT: Hold it.

21 MS. VACCARINO: Objection, Your Honor.

22 THE COURT: Hold it. Hold it.

23 MS. VACCARINO: He's (indiscernible) the record.

24 THE COURT: Listen.

1 MS. VACCARINO: You ordered a referral for a parenting
2 coordinator.

3 THE COURT: Everybody sit down. You both filed motions.
4 Everybody -- every -- no, no, sit down, Mr. Smith.

5 MS. VACCARINO: Thank you.

6 THE COURT: Your client started all this crap. He was
7 the first one that filed a motion to re -- yes, he was.

8 MR. SMITH: We weren't -- Judge, we weren't. It was her.

9 THE COURT: I went through the -- everybody's filed
10 motions to reconsider. Okay? She might have filed the first
11 one, he filed the next one. Every order that's ever been
12 issued. There's been -- and I know I'll get another one, a
13 motion to reconsider. And let me tell you both right now,
14 feel free to file it, that's your right. It'll be denied.
15 Thank you. Appeal it to the Supreme Court.

16 MR. SMITH: These motions have been --

17 THE COURT: The motion that's on for today, motion for
18 new trial, denied. Motion to amend findings, denied. Motion
19 for rescission, reconsideration, modification or stay of order
20 filed on 10/13/10, denied. Allowing Mom immediate access to
21 the tax records is --

22 MR. SMITH: It was --

23 THE COURT: -- denied.

24 MS. VACCARINO: It's weird that you're allow --

1 THE COURT: Because I'm not allowing her access. It's
2 you and your expert.

3 MS. VACCARINO: I meant through counsel, Your Honor.

4 THE COURT: Compel Dad to cooperate in commencing
5 sessions with parenting coordinator is denied. I mean, if
6 there's a --

7 MS. VACCARINO: It's granted in part.

8 THE COURT: They're all denied.

9 MR. SMITH: It wasn't granted in part. It was already
10 granted through a previous order.

11 THE COURT: The -- look. As far as additional attorney's
12 fees goes, no way, no how.

13 MS. VACCARINO: Okay.

14 THE COURT: Okay? Bottom line is you both heard me, you
15 don't want to hear me again. You both seen me; you don't want
16 to see me again. God forbid you come in here with something
17 that I don't feel -- and ask your counsel, they'll both tell
18 you. You better get a good opinion of what you're going to
19 bring into my courtroom next time. Because if I don't find it
20 to be valid, if I don't find it to be a proper exercise of
21 legal authority, I will throw the book and it's going to be a
22 big, fat volume. Okay? Attorney's fees, sanctions, whatever
23 I can muster.

24 Because this is ridiculous the amount of pleadings

1 and filings and contention that's going on in this case. I
2 don't want to see either one of you ever again. That's my job
3 and hopefully this will be a case that gets reassigned to
4 another Judge come January, and then you won't have to deal
5 with me. But if it doesn't get reassigned, you're stuck with
6 me. And --

7 MR. SMITH: Judge, in light of the fact that these were
8 simple denials --

9 THE COURT: No.

10 MS. VACCARINO: Your -- Your Honor, and let's -- let's be
11 clear.

12 THE COURT: No. I -- that's the order.

13 MS. VACCARINO: I'm preparing the order.

14 MR. SMITH: No, I'm not going to -- I'm just saying --

15 THE COURT: Prepare an order.

16 MS. VACCARINO: I'm preparing the order. So --

17 THE COURT: Prepare an order. Thank you.

18 MR. SMITH: Very good.

19 MS. VACCARINO: The order allowing her immediate access
20 to the returns is granted in the part that I can see them with
21 the att -- you need me to include that. Correct, Your Honor?

22 THE COURT: I need you --

23 MR. SMITH: Why?

24 THE COURT: -- to include what?

1 MR. SMITH: That's already been in the order. That order
2 was made in October of -

3 THE COURT: What am I --

4 MR. SMITH: -- of last year.

5 THE COURT: What are you including in the order?

6 MS. VACCARINO: Because -- you know, we're filing a
7 notice of appeal tomorrow, Your Honor, on Judge Sullivan's
8 order. So I want to be clear on this order also what you're
9 ordering today. Because they're going to go denied, denied,
10 denied, denied. Your Honor, you did say that we can have
11 access to -- if I didn't file that, we wouldn't resolve that.
12 And you said also you agreed with us that whatever Lenkeit
13 wants he should get.

14 So I'd like to state the minutes that her motions
15 are granted in part that you're clarifying what needs to be
16 done with Aquila, and I'll write it that way. And then it's
17 granted in part that -- and you're clarifying that Dr. Lenkeit
18 gets access --

19 THE COURT: Okay.

20 MS. VACCARINO: -- to what he wants.

21 THE COURT: As long as you put it --

22 MR. SMITH: In other words --

23 THE COURT: -- in those terms --

24 MS. VACCARINO: I'll put it --

1 THE COURT: -- I'm clarifying that --

2 MS. VACCARINO: -- that way, Your Honor.

3 THE COURT: -- Lenkeit should have --

4 MS. VACCARINO: I just want to be clear to the clerk.

5 THE COURT: access to the documents --

6 MS. VACCARINO: Thank you.

7 THE COURT: -- he desires to have and that I'm continuing
8 Judge Sullivan's order that a forensic specialist or you have
9 access to the Aquila records.

10 MR. SMITH: Subject to --

11 MS. VACCARINO: Thank, Your Honor.

12 MR. SMITH: -- the confidentiality --

13 THE COURT: Right.

14 MR. SMITH: -- agreement --

15 THE COURT: Subject to the --

16 MR. SMITH: -- that we've submitted --

17 THE COURT: -- confidentiality agreement.

18 MR. SMITH: -- and she's agreed to sign?

19 MS. VACCARINO: Absolutely.

20 THE COURT: Absolutely.

21 MR. SMITH: Okay. Very good.

22 THE COURT: Submit your order to Mr. Radford - Mr. Smith
23 for his approval and counter signature.

24 MS. VACCARINO: Thank you for --

1 THE COURT: If I didn't --
2 MS. VACCARINO: -- your indulgence, Your Honor.
3 THE COURT: If I don't get one signed by both of you,
4 it's not going to get done.
5 MS. VACCARINO: Thank you, Your Honor.
6 MR. SMITH: Thank you, Your Honor.
7 MS. VACCARINO: I appreciate that.
8 (WHEREUPON, THE PARTIES START TO LEAVE.)
9 THE COURT: All right. Let's get --
10 MS. VACCARINO: Could you give us the return date?
11 THE COURT: No. No return date.
12 THE CLERK: You said ninety -- oh no (indiscernible).
13 THE COURT: No. No. No. No. No.
14 THE CLERK: We're still coming back on the outsource
15 evaluation.
16 THE COURT: Are we? No.
17 MS. VACCARINO: We're still on calendar for like --
18 THE COURT: For a what?
19 MS. VACCARINO: -- February -- for a parenting
20 coordinator, you asked for a report.
21 THE COURT: No.
22 MS. VACCARINO: So I figured you might want to --
23 THE COURT: We're vacating that date.
24 MS. VACCARINO: You wanted a report by a date too.

1 THE COURT: I'm vacating that date.

2 MS. VACCARINO: If we have problems --

3 THE COURT: I don't want a report.

4 MS. VACCARINO: -- we can come back.

5 THE COURT: If there's problems, then file something.

6 MR. SMITH: Very good. Thank you, Your Honor.


7 THE COURT: Yeah. I'm vacating that date. Case closed.

8 MR. SMITH: Thank you, Your Honor.

9
10 (THE PROCEEDING ENDED AT 15:03:25.)

11 * * * * *

12 ATTEST: I do hereby certify that I have truly and correctly
13 transcribed the digital proceedings in the above-entitled case
14 to the best of my ability.

15 
16 DARRYL THOMAS,
Transcriber II

1 COST

FILED
JAN 06 2011

[Signature]
CLERK OF COURT

2
3 COPY

4 EIGHTH JUDICIAL DISTRICT COURT

5 FAMILY DIVISION

6 CLARK COUNTY, NEVADA

7 CHRISTINA CALDERON STIPP)

CASE NO. D-08-389203-Z

8 Plaintiff,)

DEPT. M

9 v)

10 MITCHELL DAVID STIPP)

11 Defendant.)
12

13 FINAL BILLING OF TRANSCRIPTS

14 The office of Transcript Video Services filed transcripts
15 for Radford J. Smith, Esq., on January 6, 2011, for the
16 following proceeding in the above-captioned case:

DECEMBER 1, 2010

17 Original transcript and one copy was requested. The
18 transcript totals 58 pages, final cost being \$205.90. A
19 deposit in the amount of \$120.00 was paid December 20, 2010.
The balance of \$30.15 is due upon receipt of transcripts.
Please make balance payable to Clark County Treasurer. If
paying cash, please present exact amount.

20 DATED this 6th day of January, 2011.

21 SHELLY A. AJOUB, SUPERVISOR
22 TRANSCRIPT VIDEO SERVICES

Amount of \$ 30.15 paid on date of 1-6-11

23 Check # 10258 Cash \$ _____

24 *[Signature]*
ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

COST

FILED

JAN 06 2011

COPY

CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

CHRISTINA CALDERON STIPP

CASE NO. D-08-389203-Z

Plaintiff,

DEPT. M

v

MITCHELL DAVID STIPP

Defendant.

FINAL BILLING OF TRANSCRIPTS

The office of Transcript Video Services filed transcripts for Radford J. Smith, Esq., on January 6, 2011, for the following proceeding in the above-captioned case:

DECEMBER 1, 2010

Original transcript and one copy was requested. The transcript totals 58 pages, final cost being \$205.90. A deposit in the amount of \$120.00 was paid December 20, 2010. The balance of \$30.15 is due upon receipt of transcripts. Please make balance payable to Clark County Treasurer. If paying cash, please present exact amount.

DATED this 6th day of January, 2011.

SHELLY A. AJOB, SUPERVISOR
TRANSCRIPT VIDEO SERVICES

Amount of \$ _____ paid on date of _____

Check # _____ Cash \$ _____

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

EIGHTH JUDICIAL DISTRICT COURT - TRANSCRIPT VIDEO SERVICES
601 N. Pecos Road, Las Vegas, Nevada 89101 (702) 455-6977

ROC

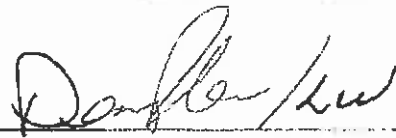
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EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

CHRISTINA CALDERON STIPP) CASE NO. D-08-389203-Z
Plaintiff,) DEPT. M
v)
MITCHELL DAVID STIPP)
Defendant.)

RECEIPT OF COPY

RECEIPT OF COPY of transcript and certification of the
December 1, 2010 hearing in the above-captioned case that was
filed January 6, 2011, for Radford J. Smith, Esq. is
acknowledged this 6th date of JAN, 2011.

BY 
RADFORD J. SMITH, ESQ.
64 North Pecos Road #700
Henderson, Nevada 89074

1 CTCN

FILED

JAN 11 6 2011

2 COPY

3 EIGHTH JUDICIAL DISTRICT COURT

John J. Smith
CLERK OF COURT

4 FAMILY DIVISION

5 CLARK COUNTY, NEVADA

6 CHRISTINA CALDERON STIPP)

CASE NO. D-08-389203-Z

7 Plaintiff,)

DEPT. M

8 v)

9 MITCHELL DAVID STIPP)

10 Defendant.)

11 **CERTIFICATION OF TRANSCRIPTS/NOTIFICATION OF COMPLETION**

12 The office of Transcript Video Services received a
13 request for original transcript and one copy, for the purpose
14 of appeal, from Radford J. Smith, Esq., on December 20, 2010.
15 A deposit was paid December 20, 2010, for the following
16 proceeding in the above-captioned case:
17

18 DECEMBER 1, 2010

19 I do hereby certify that a true and accurate copy of the
20 transcript requested in the above-captioned case was filed
21 with the Eighth Judicial District Court on January 6, 2011,
22 and ordering party was notified January 6, 2011.

23 DATED this 6th day of January, 2011.

24 SHELLY A. AJOUB, SUPERVISOR
TRANSCRIPT VIDEO SERVICES

Shelly A. Ajoub

**DEFENDANT'S EX PARTE MOTION
EXHIBIT "E"**


CLERK OF THE COURT

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

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 RE: PLAINTIFF'S MOTION TO REHEAR/RECONSIDER THE HEARING OF**
19 **FEBRUARY 3, 2010; AND/OR TO CLARIFY THE COURT'S RULINGS FROM THAT**
20 **HEARING; FOR PLAINTIFF'S ATTORNEY'S FEES; AND RELATED RELIEF AND**
21 **DEFENDANT'S COUNTERMOTION FOR SANCTIONS UNDER E.D.C.R. 7.60**

22 DATE OF HEARING: June 22, 2010
23 TIME OF HEARING: 10:00 a.m.

24 This matter coming on for hearing on Plaintiff's Motions and Defendant's Countermotion
25 referenced above; Plaintiff CHRISTINA STIPP ("Christina"), being present and represented by DONN
26 W. PROKOPIUS, ESQ., and Defendant, MITCHELL STIPP ("Mitchell"), being present and
27 represented by RADFORD J. SMITH, ESQ., of RADFORD J. SMITH, CHARTERED; the Court,
28 having reviewed the pleadings on file, having heard the arguments of counsel, and being fully advised in
the premises, and good cause appearing therefor, FINDS AND ORDERS AS FOLLOWS:

1 Christina has moved to rehear or clarify the Court's order of April 13, 2010 arising from
2 the hearing of February 3, 2010. In that order, the Court indicated its denial of Christina's
3 Countermotions filed November 30, 2009, requesting both discovery and the partition of alleged omitted
4 assets, but permitted Christina to view, subject to a Confidentiality Agreement, the tax returns of Aquila
5 Investments, LLC ("Aquila Investments") that had been submitted *in camera* by Mitchell. Christina
6 argues, in sum, that the order issued by the Court on April 13, 2010, does not accurately reflect the
7 Court's ruling at the time of the February 3, 2010 hearing regarding her Countermotions, and that new
8 "evidence" suggests that Mitchell concealed assets during the time of the parties' divorce. For the
9 reasons stated below, the Court denies those motions, denies Mitchell's countermotions for sanctions
10 pursuant to EDCR 7.60, but grants Mitchell's request for attorney's fees pursuant to the terms of the
11 Marital Settlement Agreement incorporated into the Court's Decree of Divorce.

14 2. Christina's November 30, 2009, Countermotion sought a partition of omitted assets under
15 *Amie v. Amie*, 106 Nev. 541, 796 P.2d 233 (1990) and the terms of the parties Decree of Divorce. In
16 her countermotion, she identified three factors justifying her motion: 1) that Mitchell had purchased a
17 home for his parents subsequent to the parties' divorce; 2) had stated he was "retired" after the divorce,
18 though the funds he received in the parties' March 6, 2008 divorce did not justify such retirement; and
19 3) that public records suggested that Aquila Investments, a company in which Stipp Investments, LLC,
20 an asset granted to Mitchell in the divorce, held a profits interest, distributed \$6.9 million to Mitchell
21 before or shortly after the divorce that Mitchell failed to disclose. Only the third of these claims alleged
22 that an asset held during the marriage had been undivided (the claimed distribution from Aquila
23 Investments to Mitchell). In his Opposition to Christina's original Countermotion to Partition Assets,
24 Mitchell explained the information in the public records that Christina had attached to her
25 Countermotion, and further provided the tax returns of Aquila Investments for the years 2007 and 2008
26 demonstrating that Aquila Investments had not made any distributions to Mitchell or Stipp Investments
27
28

1 during those years. (See Supplement to filed December 18, 2009). The Court held a hearing on
2 Plaintiff's Countermotion on February 3, 2010, and subsequently entered its written Order on April 13,
3 2010.

4
5 3. Christina's current motion seeks to "clarify" the Court's order of April 13, 2010. The
6 Court has reviewed its order and finds no need for clarification. At the time of the February 3, 2010
7 hearing and in its order, the Court found that Christina had not stated a basis for a claim of "omitted
8 assets," but instead she must demonstrate "fraud upon the court" in order to sustain her claim to
9 readdress the division of assets under the fraud theory she advocated in her motion. Specifically the
10 Court stated in its April 13, 2010 order, page 2-3:

11
12 4. The Court does not intend to re-litigate the financial issues between the parties.
13 and is inclined to deny Christina's Motion to partition omitted assets. The Court is not
14 willing to re-open the litigation unless it can be shown that a fraud was committed upon
15 the Court. Christina has provided no evidence of such fraud. Christina's motion to open
16 discovery is based upon her allegations relating to Aquila Investments, LLC. The court
17 notes that Christina was aware of the Aquila Investments, LLC, and its assets prior to the
18 parties' divorce. She had sufficient opportunity to explore and investigate that asset
19 during any discovery process prior to divorce. Her failure to do so does not constitute a
20 fraud committed upon the Court by Mitchell.

21
22 5. Mitchell has provided the court with tax returns from Aquila Investments for the
23 years 2007 and 2008. Christina's counsel may review those tax returns in chambers, and
24 he alone shall be provided access to the returns upon the parties' entry into a mutually
25 acceptable Confidentiality Agreement drafted by Mitchell's counsel.

26
27 Contrary to Christina's present argument, the text of the Order prepared by counsel for Mitchell is
28 accurate and properly sets forth the findings and order of the Court. The order will stand as written, and
Christina's motion for clarification is denied.

3
4 4. Christina further argues that the Court should reconsider its April 13, 2010 order based upon a
5 comment attributed to Mitchell by Dr. John Paglini during an interview associated with Dr. Paglini's
6 child custody assessment. The meaning and import of the comment is in dispute, and the Court does not
7 find the alleged statement to be adequate grounds to reopen discovery or find an omitted asset. Christina

1 claims again that Mitchell's "retirement" suggests that he hid assets during the divorce, and thus she is
2 justified in seeking discovery. The Court never took the reference to "retirement" to mean that Mitchell
3 had retired for life, but only that he was not working based upon the employment opportunities he
4 currently faces. The Court does not find these, or any other grounds stated by Christina in her pleadings
5 supporting her motion, to be adequate evidence to justify either rehearing of the Court's April 13, 2010
6 order, nor an adequate basis for the opening of discovery relating to Christina's claim for partition of
7 omitted assets. The Court thus denies Christina's present motions.
8

9 5. Mitchell has countermoved for sanctions. The Court does not find that Christina has brought
10 her motion in bad faith, and thus denies that request. Mitchell, however, is entitled to an award of fees
11 as the prevailing party in this litigation. (See Marital Settlement Agreement, incorporated into the
12 Court's March 6, 2008 Decree of Divorce, at page 10. ¶7). Mitchell's counsel shall file a statement of
13 fees and costs incurred in relation to Christina's Motion for Reconsideration and related countermotions
14 to the Court within ten (10) days of hearing.
15
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1 6. Counsel for Christina has requested that the Court permit an accounting expert (a CPA) to
2 review the tax returns of Aquila Investments submitted by Mitchell to the Court, and Mitchell has no
3 objection to that request. Consequently, the Court shall permit either counsel for Christina and/or her
4 accounting expert to examine the Aquila Investment's tax returns in a manner consistent with the terms
5 of the Court's April 13, 2010 order.
6


7
8 IT IS SO ORDERED this 6 day of October, 2010.
9

10 
11 DISTRICT COURT JUDGE

12 FRANCIS P. SULLIVAN

13 Submitted by:

14 RADFORD J. SMITH, CHARTERED

15 
16 RADFORD J. SMITH, ESQ.
17 Nevada State Bar No. 002791
18 64 N. Pecos Road - Suite 700
19 Henderson, Nevada 89074
20 Attorneys for Defendant
21
22
23
24
25
26
27
28

**DEFENDANT'S EX PARTE MOTION
EXHIBIT "F"**

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, Esq.
DANIELLE TAYLOR, Esq.
KELLY R. WULF, PARALEGAL

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

TELEPHONE: (702) 880-8448
FACSIMILE: (702) 880-8458
RSMITH@RADFORDSMITH.COM

December 15, 2010

VIA HAND DELIVERY

Judge Potter

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

Dear Judge Potter:

As you know, I represent Mitchell Stipp in the above-referenced case. The Court held a hearing on December 1, 2010. At the hearing, the Court instructed Patricia Vaccarino, who represents Christina Calderon-Stipp, to prepare an order incorporating the rulings made by the Court at that hearing. To date, Ms. Vaccarino has failed to provide me with a draft order. Instead, Ms. Vaccarino has prepared a stipulation and order which attempts to address (although inaccurately) only one of the matters decided by the Court at the hearing. Enclosed is the correspondence I exchanged with Ms. Vaccarino on the issue. As the Court can see from its review of the letters, I provided Ms. Vaccarino ample time to prepare and provide me a draft of the order. Given these circumstances, and the time required by EDCR 7.21 for the timely preparation of orders (i.e., 10 days after notice of the rulings), I am submitting the form of the order from the December 1, 2010 hearing for entry without Ms. Vaccarino's signature.

I believe that the form of the order from the December 1, 2010 hearing that I am submitting with this letter accurately reflects the rulings of the Court. Unfortunately, the Court's minutes from the hearing are inaccurate in three (3) material respects which are described below. I have ordered the written transcript from the hearing, but it is not yet available. However, these errors can be identified by reviewing the video transcript of the hearing. I have addressed these matters in the form of the order; however, I would respectfully ask that the Court correct the minutes from the hearing. There is a history in this case of Christina's counsel misrepresenting the rulings of the Court from hearings, and I want to prevent any argument from Ms. Vaccarino, whether via another motion before the Court or on appeal, that the form of the order entered by the Court was inconsistent with the minutes.

First, the Court ruled at the hearing that Dr. Lenkeit may have access to documents which are part of the sealed case upon his specific request to review a document but subject to the right of the parties to object to any document's disclosure (which objection would be resolved via telephone conference with the Court and the parties' counsel). The Court's minutes do not reflect that the parties have the right to object to Dr. Lenkeit's requests for disclosure and the manner in which the Court would resolve any such objections.

Second, the Court *did not* order Mitchell to provide *his* tax returns to Christina at the December 1, 2010 hearing. The purpose of the hearing on December 1, 2010 was to consider Christina's motion for reconsideration of Judge Sullivan's order entered on October 12, 2010. Judge Sullivan's order, and his prior order entered on April 9, 2010 are more fully described by

Mitchell in his opposition and countermotion filed with the Court on November 18, 2010. Judge Sullivan's orders make it clear that Christina's motions (including her request for discovery of Mitchell's personal financial affairs) were denied. The Court at the hearing on December 1, 2010 also denied Christina's motions on this same matter which were accurately reflected in the minutes. However, the Court's minutes incorrectly provide that Christina's request for access to Mitchell's tax records as previously ordered is granted. Judge Sullivan never ordered Mitchell to provide Christina his tax returns (or any other financial information). I believe the reason for this is the false statement by Christina in her motion, and then by her counsel at hearing, that Judge Sullivan had granted Christina access to Mitchell's returns, and the error by the court clerk is understandable. Nevertheless, this is an error in the record that I presume the court will correct.

Third, the Court permitted Ms. Vaccarino at the December 1, 2010 hearing to subpoena Aquila Investments, LLC ("Aquila") for release of the 2007 and 2008 federal income tax returns of Aquila that Mitchell submitted for *in camera* review by Judge Sullivan if and only if those returns were not available through Judge Sullivan's office, and then only after she had executed the Confidentiality Agreement that Judge Sullivan previously ordered. At the hearing, Ms. Vaccarino withdrew her exception to the Confidentiality Agreement, and agreed on the record to sign the form previously provided to her by my office. As the Court can see from Judge Sullivan's orders, Judge Sullivan only permitted Christina's counsel and/or her accounting expert to review these tax returns as a matter of due process subject to a confidentiality agreement. Judge Sullivan's orders do not permit any type of discovery.

I believe the form of the order accurately reflects the Court's rulings from the December 1, 2010 hearing. Therefore, I respectfully ask that the Court enter the order so that the parties can begin working with Dr. Lenkeit to resolve their dispute over the medical care of their daughter, Mia. It is my understanding that Dr. Lenkeit cannot begin work with the parties without entry of the Court's order from the December 1, 2010 hearing.

Sincerely,

RADFORD J. SMITH, CHARTERED



Radford J. Smith, Esq.

RJS:

Encls.

cc: Patricia Vaccarino (via fax with enclosure)
Mitchell Stipp (via email with enclosure)

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.: M

FAMILY DIVISION

18 **ORDER FROM HEARING ON PLAINTIFF'S MOTION FOR "NEW" TRIAL AND**
19 **DEFENDANT'S OPPOSITION AND COUNTERMOTION**

20 DATE OF HEARING: December 1, 2010

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

22 This matter coming regularly on for hearing on Plaintiff's MOTION FOR "NEW" TRIAL TO
23 AMEND FINDINGS AND/OR RESCISSION, RECONSIDERATION, MODIFICATION AND/OR
24 STAY OF ORDER FILED ON OCTOBER 13, 2010, AND ALLOWING PLAINTIFF IMMEDIATE
25 ACCESS TO DEFENDANT'S TAX RECORDS AS PREVIOUSLY ORDERED, AND TO COMPEL
26 DEFENDANT TO COOPERATE IN COMMENCING SESSIONS WITH THE PARENTING
27 COORDINATOR AND FOR ATTORNEY'S FEES AND COSTS; and Defendant's OPPOSITION
28 AND COUNTERMOTION FOR AN AWARD OF ATTORNEY'S FEES, COSTS AND SANCTIONS;

1 Plaintiff CHRISTINA CALDERON-STIPP ("Christina"), being present and represented by PATRICIA
2 VACCARINO, ESQ., of VACCARINO LAW OFFICE, and Defendant, MITCHELL STIPP
3 ("Mitchell"), being present and represented by RADFORD J. SMITH, ESQ., of RADFORD J. SMITH,
4 CHARTERED; this Court, having reviewed the pleadings on file, having heard the arguments of
5 counsel, and being fully advised in the premises, and good cause appearing therefore, FINDS AND
6 ORDERS AS FOLLOWS:

8 1. Christina's motions for a new trial, to amend findings and/or for rescission,
9 reconsideration, modification and/or stay of the orders entered by Judge Sullivan on or about October
10 13, 2010 and November 30, 2010 (arising from the matters before him at the hearing on June 22, 2010)
11 are denied.

13 2. In her motions cited above, Christina has further requested that this Court address the
14 scope of the "confidentiality agreement" envisioned by Judge Sullivan in his order of April 9, 2010,
15 arising from the hearing of February 3, 2010. Under that order, Judge Sullivan granted Christina's
16 counsel the right to review the 2007 and 2008 tax returns of Aquila Investments, LLC ("Aquila") that
17 had been previously submitted by Mitchell to Judge Sullivan *in camera*, but predicated counsel's review
18 to be "upon the parties entry into a mutually acceptable Confidentiality Agreement drafted by Mitchell's
19 counsel." Judge Sullivan later, in his October 12, 2010 order (arising from the hearing of June 22, 2010
20 on Christina's Motion to Reconsider, etc. Judge Sullivan's April 9, 2010 order), confirmed the parties
21 agreement that the Aquila tax returns held by Judge Sullivan could be reviewed by a CPA hired by
22 Christina.

25 3. In Christina's motions, counsel for Christina alleges that the proposed Confidentiality
26 prepared by Mitchell's counsel places undue liability upon her (Christina's counsel) for the actions of
27 Christina and her expert. Christina's counsel, however, has withdrawn that objection and has indicated
28 her intent to execute the Confidentiality Agreement provided to her by Mitchell's counsel, and thus the

1 issue raised in Christina's motion regarding the language of the Confidentiality Agreement is moot.
2 Consequently, upon Christina's, her counsel's, and her expert's execution of the Confidentiality
3 Agreement, Christina's counsel will have access to review the 2007 and 2008 Aquila tax returns held by
4 Judge Sullivan.
5

6 4. The Court has concern that Judge Sullivan has not retained the Aquila tax returns, and
7 while the Court acknowledges that it does not have jurisdiction over Aquila, in the event Judge Sullivan
8 no longer has the returns, the Court will permit Christina's counsel to subpoena Aquila for release of
9 Aquila's 2007 and 2008 federal income tax returns.
10

11 5. Christina has incorrectly alleged in her motions that Judge Sullivan permitted the review
12 of Mitchell's personal tax returns; that assertion is incorrect. The Court shall not require Mitchell to
13 submit his tax returns to Christina, and recognizes Judge Sullivan's orders of April 9, 2010 and October
14 12, 2010 denying Christina's request for post trial discovery.
15

16 6. Christina's motion for an order to show cause why Mitchell should not be held in
17 contempt for alleged willful violations of court orders, which motion was pending from the October 6,
18 2010 hearing, is denied.
19

20 7. Christina's motions for an order permitting Christina to obtain counseling for Ethan Stipp
21 and for an order restricting Mitchell from allowing the parties' children to have contact with their
22 cousin, Cody Stipp, are hereby denied.
23

24 8. Christina's motion to compel Mitchell to cooperate in commencing sessions with Dr.
25 Gary Lenkeit as the parties' parenting coordinator is denied.
26

27 9. Christina's motion for attorney's fees and costs pending from the October 6, 2010
28 hearing and her motion for attorney's fees and costs before the Court at the present hearing are denied.
29

30 10. Mitchell's motion for sanctions is denied, and his motion for attorney's fees as prevailing
31 party is denied.
32

1 11. While the Court does not believe that Mia Stipp needs additional evaluations and/or
2 treatment, this Court confirms the appointment of Dr. Lenkeit as a parenting coordinator of the parties
3 for the specific purpose of facilitating mediation between the parties regarding the medical care of Mia
4 subject to the following terms and conditions:
5

6 a. The appointment of Dr. Lenkeit is not made pursuant to NRCP 53(a) because it is
7 not the Court's intention to delegate its judicial authority to Dr. Lenkeit to decide the dispute between
8 the parties. Accordingly, Dr. Lenkeit shall not have any decision-making authority to resolve the
9 dispute between them.
10

11 b. In the event that the parties fail to reach an agreement on the issue of Mia's
12 medical care after working with Dr. Lenkeit for ninety (90) days, either party may terminate the
13 appointment of Dr. Lenkeit and file a motion to have the Court decide the matter of Mia's medical care.
14

15 c. Dr. Lenkeit shall not submit any written reports to the Court.
16

17 d. The parties shall provide to Dr. Lenkeit any documents that are part of the sealed
18 case including, without limitation, pleadings, orders, the child custody evaluation prepared by Dr. John
19 Paglini, or the transcripts of any hearings (including audio/video and written transcripts), if requested by
20 Dr. Lenkeit and subject to either party's right to object to such disclosure (which objection shall be
21 resolved by the Court and counsel for the parties via telephone conference).
22

23 12. In the event of a conflict between any of the terms and conditions of this order and the
24 order from the October 6, 2010 hearing, the terms and conditions of this order shall control.
25

26 13. To the extent not otherwise addressed above, all other motions and/or requests for relief
27 by the parties before this Court are denied.
28

 14. Notwithstanding the court's denial of the parties' motions for sanctions and fees at this
hearing, the court admonishes the parties and their counsel that if it finds that either party has filed a
motion in violation of the timeframes set out above, or has filed a motion that lacks legal or factual

1 merit, the court intends to enter significant sanctions against the party filing the baseless claim or
2 motion.


3 15. The status check scheduled for January 11, 2011 at 2:30 p.m. is hereby vacated, and this
4 case is closed.
5

6
7 IT IS SO ORDERED this _____ day of _____, 2010.
8
9

10 _____
11 DISTRICT COURT JUDGE

12 *Submitted by:*

13 RADFORD J. SMITH, CHARTERED

14 
15 _____
16 RADFORD J. SMITH, ESQ.
17 Nevada State Bar No. 002791
18 64 N. Pecos Road - Suite 700
19 Henderson, Nevada 89074
20 Attorneys for Defendant
21
22
23
24
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27
28

RADFORD J. SMITH, ESQ.
DANIELLE TAYLOR, ESQ.
KELLY R. WULF, PARALEGAL

RADFORD J. SMITH, CHARTERED

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

TELEPHONE: (702) 890-6448
FACSIMILE: (702) 890-6458
RSMITH@RADFORDSMITH.COM

December 22, 2010

VIA FACSIMILE
Judge Potter

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

Dear Judge Potter:

As you know, I represent Mitchell Stipp in the above-referenced case. I received a copy of a letter sent to you from Patricia Vaccarino, who represents Christina Calderon-Stipp, dated December 17, 2010. This letter was in response to my letter to you dated December 15, 2010 enclosing the form of the order from the December 1, 2010 hearing. I sent Ms. Vaccarino a copy of my letter including the form of the order prior to receiving her correspondence dated December 16, 2010. My letter to you requests that the Court enter the form of the order I prepared and submitted which I believe accurately reflects the rulings from the hearing and to correct the minutes from the hearing.

I understand that Ms. Vaccarino objects to my request and has or will be filing a motion and/or submitting her own proposed order. Ms. Vaccarino has already provided a copy of her proposed order to Dr. Lenkeit and me on December 21, 2010. A copy of this correspondence is enclosed for your reference. The purpose of this letter is to address Ms. Vaccarino's proposed order and respectfully request that the Court enter the order I prepared and submitted and correct the minutes from the hearing.

Ms. Vaccarino's proposed order is basically a carbon copy of the minutes. I have taken the time to advise the Court of the errors in the minutes in my letter of December 15, 2010. I prepared the form of the order submitted to you for entry based on the minutes and the video transcript of the hearing.

While Ms. Vaccarino generally objects to the form of the order I prepared and submitted, she does not address how it fails accurately to memorialize the rulings of the Court at the hearing. Instead, she is complicating the matter by threatening to file a motion and/or preparing her own order based on minutes from the hearing that she knows are inaccurate with the hope that the Court will never enter an order from the hearing. I also do not believe that it was proper to provide Dr. Lenkeit with a draft order that had not been entered by the court.

While Ms. Vaccarino has falsely accused me of preparing orders that do not reflect the findings of the court (even after the court has entered the order and acknowledged that they are accurate), Ms. Vaccarino and Christina clearly know that the Court did not order Mitchell to provide his tax records to Christina at the December 1, 2010 hearing. As set forth in my previous correspondence, Judge Sullivan never allowed any discovery in this matter by Christina, and particularly and specifically denied her motions seeking such discovery both initially and upon

Judge Potter
December 22, 2010
Page 2

her motion for rehearing. This court refused to allow such discovery by denying Christina's second motion for rehearing. Nevertheless, Ms. Vaccarino includes in her proposed order that Mitchell must provide his tax returns. As I stated in my letter to you dated December 15, 2010, I believe the Court's clerk made this error because of Christina's false statement in her motion and Ms. Vaccarino's misrepresentation to you at the hearing that Judge Sullivan ordered the release of Mitchell's tax returns to Christina. These actions raise serious concerns about Ms. Vaccarino's candor to the Court.

Ms. Vaccarino's proposed order is also inaccurate with respect to the Court's rulings on the issue of the release of the 2007 and 2008 tax returns of Aquila Investments, LLC. I direct the Court again to my letter dated December 15, 2010 on this issue.

Mitchell is again forced to incur fees to address matters that are plain from the record. I note that in a discussion with Dr. Lenkeit last evening, Dr. Lenkeit indicated that he would need a final order before agreeing to proceed with the case. Ms. Vaccarino threatened yet another motion. I believe that the Court had the right idea in this matter by closing the case. I hope that the entry of this order will at least for some period of time stop Christina's and her counsel's filing of serial motions.

Sincerely,

RADFORD J. SMITH, CHARTERED



Radford J. Smith, Esq.

RJS:

Encls.

cc: Patricia Vaccarino (via fax)
Mitchell Stipp (via email)

**DEFENDANT'S EX PARTE MOTION
EXHIBIT "G"**

1 **ORDR**

2
3
4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**

6 CHRISTINA CALDERON STIPP,

7 Plaintiff,

8 vs.

9 MITCHELL DAVID STIPP,

10 Defendant.

CASE NO.: D-08-389203-Z

DEPT NO.: M

FAMILY DIVISION

11
12 **AMENDMENT TO MINUTES AND ORDER**
13 **FROM HEARING ON DECEMBER 1, 2010**

14 DATE OF HEARING: December 1, 2010

15 TIME OF HEARING: 2:00 pm

16 This matter having come before this Court on Defendant's Ex Parte Motion to Correct Minutes
17 and Order from the Hearing on December 1, 2010, this Court, having reviewed the pleadings, minutes
18 and transcripts on file, and good cause appearing therefor, FINDS AND ORDERS AS FOLLOWS:

19 1. The Court at the hearing on December 1, 2010 denied Christina's motion for an order to
20 show cause why Mitchell should not be held in contempt for alleged willful violations of court orders,
21 which was pending from the hearing on October 6, 2010.

22 2. The Court at the hearing on December 1, 2010 denied Christina's motion to compel
23 Mitchell to cooperate in commencing sessions with Dr. Gary Lenkeit as the parties' parenting
24 coordinator, which was before the Court at the hearing on December 1, 2010.
25
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27
28

1 3. At the hearing on December 1, 2010, the Court did not order and Mitchell is not required
2 to provide Christina his tax returns or any other personal financial information pursuant to any motions
3 and/or requests for relief by Christina before the Court at the hearing on December 1, 2010.
4

5 4. The Court at the hearing on December 1, 2010 denied Mitchell's motion for sole decision-
6 making authority over healthcare matters affecting the children, which was pending from the hearing on
7 October 6, 2010.

8 5. The Court at the hearing on December 1, 2010 denied Mitchell's motions for attorney's
9 fees and costs, which were pending or before the Court from or at the hearings on October 6, 2010 and
10 December 1, 2010.
11

12 IT IS SO ORDERED this day of , 2011.
13
14

15 _____
16 DISTRICT COURT JUDGE
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**DEFENDANT'S EX PARTE MOTION
EXHIBIT "H"**

1 **ORDR**

2
3
4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**

6 CHRISTINA CALDERON STIPP,

7 Plaintiff,

8 vs.

9 MITCHELL DAVID STIPP,

10 Defendant.

CASE NO.: D-08-389203-Z

DEPT NO.: M

FAMILY DIVISION

11
12 **CERTIFICATION OF COURT'S INCLINATION TO CORRECT**
13 **MINUTES AND ORDER FROM HEARING ON DECEMBER 1, 2010**

14 This Court certifies its inclination pursuant to *Huneycutt v. Huneycutt*, 94 Nev. 79, 575 P.2d 585
15 (1978), as clarified and explained by *Foster v. Dingwall*, 228 P.3d 453 (Nev. 2010), to grant Defendant's
16 Ex Parte Motion to Correct Minutes and Order from the Hearing on December 1, 2010.
17

18 IT IS SO ORDERED this _____ day of _____, 2011.

19
20
21 _____
22 DISTRICT COURT JUDGE
23
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28

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

Electronically Filed
May 18 2011 02:08 p.m.
Tracie K. Lindeman

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

11 Attorneys for Appellant Mitchell Stipp

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

16 MITCHELL DAVID STIPP,

17 Appellant,

18 v.

19 CHRISTINA CALDERON STIPP

20 Respondent.

SUPREME COURT CASE NO.: 57876

DISTRICT COURT CASE NO.: D38920

21 **RESPONSE TO ORDER TO SHOW CAUSE**

22
23 On April 18, 2011, the Nevada Supreme Court issued an order to show cause why the appeal of
24 Mitchell David Stipp ("Mitchell"), should not be dismissed for lack of jurisdiction. Mitchell, by and
25 through his attorney Radford J. Smith, Esq., of the firm of Radford J. Smith, Chartered, hereby submits
26 his response as set forth below.
27
28

I.

STATEMENT OF FACTS

The parties, Mitchell Stipp ("Mitchell"), and Christina Calderon-Stipp ("Christina"), have two children, Mia, born October 19, 2004, and Ethan, born March 24, 2007. The parties were divorced by Decree on March 6, 2008, under which they were granted joint legal and physical custody of the children, as agreed by the parties in their marital settlement agreement ("MSA"), which was incorporated into the Decree. *See* Decree and MSA attached hereto as Exhibit "A." The parties were before Judge William Potter of Department M, Eighth Judicial District Court, Clark County, State of Nevada, on October 6, 2010 on Christina's motion for an order to show cause and other related relief. At the hearing, at Christina's request, the district court temporarily appointed a parenting coordinator, Dr. Gary Lenkeit, to help the parties' reach a resolution of the issue of the mental healthcare of Mia, denied Christina's request for counseling for Ethan, and deferred its decisions on all other matters before it until Judge Frank Sullivan issued his written decision (which was entered on November 4, 2010).¹ Attached hereto as Exhibit "B" is the Order from the hearing on October 6, 2010.

The parties were before Judge Potter on December 1, 2010 as a result of another motion filed by Christina. At the hearing, the district court re-appointed Dr. Lenkeit as the parties' "parenting coordinator", denied again Christina's request for counseling for Ethan, denied Christina's pending motions from the October 6, 2010 hearing as well as her other motions before it at the December 1, 2010 hearing, and closed the case. The district court also prohibited the parties from filing any motions for at least 90 days. Before closing the case, however, the district court did not expressly rule upon Mitchell's countermotions pending from the October 6, 2010 and December 1, 2010 hearings. Those countermotions included Mitchell's request to have sole decision-making authority over healthcare

¹ The decision of Judge Sullivan is on appeal before this Court in Case No. 57327.

1 matters affecting the children. Attached hereto as Exhibit "C" is the Order from the hearing on
2 December 1, 2010. Mitchell's counter motions are not addressed in the final written order. This order is
3 the order from which Mitchell has appealed.

4 The parties were before Judge Potter on April 12, 2011 as a result of another motion filed by
5 Christina. At the hearing, the district court confirmed that its entry of the order from the hearing on
6 December 1, 2010 was a mistake, and as a result, it desired to vacate it (but could not do so because of
7 Mitchell's appeal). Mitchell has ordered an official written transcript from the April 12, 2011 hearing,
8 which was still not available at the time of filing his response. See Transcript Request attached hereto as
9 Exhibit "D." As soon as it is available, Mitchell will file it as a supplement to his response. However,
10 Mitchell filed on April 20, 2011 an ex parte motion to correct the minutes and order from the hearing on
11 December 1, 2010, which is attached hereto as Exhibit "E."²

14 II.

15 POINTS AND AUTHORITIES

16 If the district court certifies its intention to grant Mitchell's ex parte motion to correct the
17 minutes and order from the hearing on December 1, 2010, Mitchell intends to file a motion to have the
18 case remanded so that the district court can grant the relief requested in Mitchell's motion. If, upon
19 remand, the district court vacates the order from the hearing on December 1, 2010 and enters the form of
20 order requested by Mitchell, Mitchell's appeal becomes moot (although both parties will have the right
21 to appeal from the new order). Alternatively, if the district court simply amends the order to correct the
22 errors, Mitchell's appeal will survive for the reasons set forth below. To date, however, Mitchell's ex
23 parte motion remains pending before the district court.

28 ² Attached as part of Mitchell's ex parte motion is the official written transcript from the hearing on December 1, 2010.

1 Mitchell's appeal concerns in part the failure of the district court expressly to rule upon
2 Mitchell's counter motions pending from the October 6, 2010 and December 1, 2010 hearings. Those
3 counter motions included Mitchell's request to have sole decision-making authority over healthcare
4 matters affecting the children. While Mitchell believes the failure to decide these matters constitutes an
5 error by the district court, Mitchell acknowledges the Court's view that the district court's failure
6 expressly to rule on his counter motions constitutes a denial of his requests for relief. *Cf. Bd. of Gallery*
7 *of History v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150 (2000). In this case, the denial of
8 Mitchell's request for sole decision-making authority over healthcare matters affecting the children is
9 still ripe for appeal. The right to decide healthcare matters affecting the children is a right of legal
10 custody defined as part of the parties' MSA, which was incorporated into their Decree. Accordingly, the
11 denial of Mitchell's counter motion on this matter may be appealed as a special order made after final
12 judgment. *See* NRAP 3A(b)(8); *Burton v. Burton*, 99 Nev. 698, 669 P.2d 703 (1983) (order denying a
13 motion to modify a family court order, when the motion is based on changed or legal circumstances, is
14 appealable as a special order after final judgment).

15 NRAP 3A(a) provides that "[a] party who is aggrieved by an appealable judgment or order may
16 appeal from that judgment or order, with or without first moving for a new trial." A party is "aggrieved"
17 within the meaning of NRAP 3A(a) by the district court's order "when either a personal right or right of
18 property is adversely and substantially affected" by a district court's ruling. *Valley Bank of Nevada v.*
19 *Ginsburg*, 110 Nev. 440, 446-48, 874 P.2d 729, 734-35 (1994) (citation omitted). The district court's
20 denial of Mitchell's counter motion for sole decision-making authority over healthcare matters affecting
21 the children "substantially and adversely affected" Mitchell's rights because changed circumstances
22 supported Mitchell's position that it was in the best interests of the children to grant Mitchell's
23 counter motion.

1 With respect to the other issues Mitchell identified in his docketing statement as issues on
2 appeal, which this Court has indicated in its order to show cause that it may lack jurisdiction to consider,
3 Mitchell expects them to be resolved by the district court pursuant to his ex parte motion. Therefore,
4 Mitchell respectfully requests that the Court grant him an additional 30 days to respond to the Court's
5 order to show cause on these other issues in order to provide the district court sufficient time to rule on
6 his pending ex parte motion. During this time, Mitchell also respectfully requests that the Court suspend
7 the briefing schedule on this appeal.
8

9 **III.**

10 **CONCLUSION**

11 Based on the foregoing, the Nevada Supreme Court should not dismiss Mitchell's appeal for lack
12 of jurisdiction.
13

14
15 DATED this 18 day of May, 2011.

16
17 RADFORD J. SMITH, CHARTERED

18 
19 _____
20 RADFORD J. SMITH, ESQ.
21 Nevada Bar No. 002791
22 64 N. Pecos Road, Suite 700
23 Henderson, Nevada 89074
24 (702) 990-6448
25 Attorneys for Appellant Mitchell Stipp
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document described as "RESPONSE TO ORDER TO SHOW CAUSE" by mail pursuant to NRAP 25 on this 18 day of May, 2011, to all interested parties as follows:

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


An employee of Radford J. Smith, Chartered

EXHIBIT “A”

1 CERT
2 CHRISTINA CALDERON STIPP
3 11757 Feinberg Place
4 Las Vegas, Nevada 89138
5 Petitioner In Proper Person

6 MITCHELL DAVID STIPP
7 2055 Alcova Ridge Drive
8 Las Vegas, Nevada 89135
9 Petitioner in Proper Person

DISTRICT COURT
FAMILY DIVISION

CLARK COUNTY, NEVADA

In the Matter of the Joint Petition of)

10 CHRISTINA CALDERON STIPP and)
11 MITCHELL DAVID STIPP,)

CASE NO. D-08-389203-Z
DEPT NO. L

12 Joint Petitioners.
13

14 NOTICE OF ENTRY OF DECREE OF DIVORCE
15 AND
16 CERTIFICATE OF MAILING

17 TO: CHRISTINA CALDERON STIPP, Petitioner; and

18 TO: MITCHELL DAVID STIPP, Petitioner:

19 PLEASE TAKE NOTICE that a Decree of Divorce was entered in the above-
20 entitled matter on March 6, 2008, a copy of which is attached hereto.

21 Elena Calderon
22 ELENA CALDERON
23
24
25
26
27
28

1 CERTIFICATE OF MAILING

2 I HEREBY CERTIFY that service of the Decree of Divorce entered in this
3 matter on March 6, 2008, was made on March 31, 2008, pursuant to NRCP
4 5(b), by depositing a copy of same in the United States Mail in Las Vegas, Nevada,
5 postage prepaid, addressed as follows:

6 CHRISTINA CALDERON STIPP
7 11757 Feinberg Place
8 Las Vegas, Nevada 89138

9 and

10 MITCHELL DAVID STIPP
11 2055 Alcova Ridge Drive
12 Las Vegas, Nevada 89135

13 DATED this 31st day of March, 2008.

14 Elena Calderon
15 ELENA CALDERON

16 Subscribed and sworn to before me
17 this 31st day of March, 2008.

18 Amy Upp
19 Notary Public in and for said
20 County and State.



21 AMY UPP
22 Notary Public
23 State of Nevada
24 Appt. No. 07-5136-1
25 My Appt. Expires Oct. 25, 2011
26
27
28

1 DECD
2 CHRISTINA CALDERON STIPP
2055 Alcova Ridge Drive
3 Las Vegas, Nevada 89135
Home Telephone No.: (702) 304-0275
4 Cellular Telephone No.: (702) 610-0032
Petitioner in Proper Person

5 MITCHELL DAVID STIPP
2055 Alcova Ridge Drive
6 Las Vegas, Nevada 89135
Home Telephone No.: (702) 304-0275
7 Cellular Telephone No.: (702) 378-1907
8 Petitioner in Proper Person

9 DISTRICT COURT
10 FAMILY DIVISION

11 CLARK COUNTY, NEVADA

12 In the Matter of the Joint Petition of)
13 CHRISTINA CALDERON STIPP and)
14 MITCHELL DAVID STIPP,)
15 Joint Petitioners.)

CASE NO. D-08-389203-2
DEPT NO. L

16
17 DECREE OF DIVORCE

18 The above-entitled cause having been submitted to the above-entitled Court for decision
19 pursuant to Chapter 125 of the Nevada Revised Statutes, and based upon the Joint Petition for
20 Divorce (the "Joint Petition") filed by Petitioner CHRISTINA CALDERON STIPP and Petitioner
21 MITCHELL DAVID STIPP, and all of the papers and pleadings on file in this action, the Court
22 finds as follows:

- 23 1. That all of the allegations contained in the Joint Petition and other papers and
24 documents on file with this Court are true.
- 25 2. That all of the requirements of NRS 125.181 and NRS 125.182 have been met.
- 26 3. That this Court has complete jurisdiction as to the parties and the subject matter
27 thereto.
- 28

FILED

MAR 6 9 48 AM '08

CLERK OF THE COURT

1 4. That Petitioner CHRISTINA CALDERON STIPP has been and is now an actual
2 bona fide resident of Clark County, Nevada, and has actually been domiciled in Clark County for
3 more than six (6) weeks immediately prior to the commencement of this action.

4 5. That Petitioner MITCHELL DAVID STIPP has been and is now an actual bona fide
5 resident of Clark County, Nevada, and has actually been domiciled in Clark County for more than
6 six (6) weeks immediately prior to the commencement of this action.

7 6. That the parties were married in Las Vegas, Nevada, on July 18, 1997.

8 7. That the parties are incompatible in marriage and are entitled to a Decree of Divorce
9 on the grounds of incompatibility.

10 8. That the parties have two (2) minor children born the issue of their marriage,
11 namely: Mia Elena Stipp, born October 19, 2004, and Ethan Christopher Stipp, born, March 24,
12 2007. That Petitioner CHRISTINA CALDERON STIPP is not pregnant, and the parties have no
13 other children the issue of the parties' relationship, including any adopted children, who have yet
14 to reach the legal age of majority as of the date of the entry of this Decree of Divorce.

15 9. That the parties entered into a Marital Settlement Agreement on February 20, 2008,
16 a copy of which is attached hereto as EXHIBIT 1 (the "Marital Settlement Agreement"). That by
17 way of the parties' said Marital Settlement Agreement, the parties have resolved between
18 themselves all questions and issues relating to the custody, visitation, and support of the parties'
19 minor children, as well as all questions and issues pertaining to the division of the parties' property,
20 the assumption of their debts, the payment of alimony, and all other issues and claims, marital and
21 otherwise, that exist between the parties. That the parties' said Marital Settlement Agreement is
22 hereby ratified, confirmed and approved by the Court, and the same merged into this Decree of
23 Divorce, thereby becoming a part of this Decree to the extent as if same were set forth in this
24 Decree in full.

25 10. That the parties have waived their rights to written Notice of Entry of Decree of
26 Divorce, to appeal, to Findings of Fact and Conclusions of Law, and to move for a new trial.

27 Thus, with good cause appearing therefor, the Court hereby enters the following Orders:

28 I. TERMINATION OF THE PARTIES' MARRIAGE

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the bonds of matrimony
2 heretofore and now existing between Petitioner CHRISTINA CALDERON STIPP and Petitioner
3 MITCHELL DAVID STIPP be dissolved, set aside, and forever held for naught, and that Petitioner
4 CHRISTINA CALDERON STIPP and Petitioner MITCHELL DAVID STIPP be, and the both
5 hereby are, awarded and decreed an absolute and final Decree of Divorce from each other, and that
6 the parties, and each of them, is hereby restored to the status of a single, unmarried person.

7 II. CHILD CUSTODY

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioner CHRISTINA
9 CALDERON STIPP and Petitioner MITCHELL DAVID STIPP shall have joint legal custody of
10 the parties' minor children, Mia Elena Stipp, born October 19, 2004, and Ethan Christopher Stipp,
11 born, March 24, 2007, with the physical custody, visitation, and timeshare arrangements being as
12 set forth in Section 1 of the parties' Marital Settlement Agreement attached to this Decree as
13 Exhibit 1. IT IS FURTHER ORDERED that the parties' said agreement as to the custody,
14 visitation, and timeshare arrangements set forth in Section 1 of the attached Marital Settlement
15 Agreement is further ratified, confirmed, and approved by the Court at this time, and the same is
16 incorporated into this Decree of Divorce as though the same were set forth in this Decree in full.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to NRS
18 125C.200, should Petitioner CHRISTINA CALDERON STIPP intend to permanently move her
19 residence to a place outside the State of Nevada, and take the minor children with her, she must,
20 as soon as possible, and before the planned move, attempt to obtain the written consent of
21 Petitioner MITCHELL DAVID STIPP to move the children from the State. If Petitioner
22 MITCHELL DAVID STIPP refuses to give such consent, Petitioner MITCHELL DAVID STIPP
23 shall, before she leaves the State with the minor children, petition the Court for permission to move
24 the children.

25 IT IS FURTHER ORDERED that the parties are subject to the following provisions of NRS
26 125.510(6) for violation of the Court's Order:

27 PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,
28 CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS
ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN

1 NRS 193.130. NRS 200.359 provides that every person having a limited right of
2 custody to a child or any parent having no right of custody to the child who
3 willfully detains, conceals or removes the child from a parent, guardian or other
4 person having lawful custody or a right of visitation of the child in violation of an
5 order of this court, or removes the child from the jurisdiction of the court without
6 the consent of either the court or all persons who have the right to custody or
7 visitation is subject to being punished for a category D felony as provided in NRS
8 193.130.

9 IT IS FURTHER ORDERED that, pursuant to NRS 125.510(7) and (8), the terms of the
10 Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on
11 Private International Law, are applicable to the parties. IT IS FURTHER ORDERED that the
12 minor children's habitual residence is located in the County of Clark, State of Nevada, within the
13 United States of America. NRS 125.510(7) and (8) specifically provide as follows:

14 Section 7. In addition to the language required pursuant to subsection 6,
15 all orders authorized by this section must specify that the terms of the Hague
16 Convention of October 25, 1980, adopted by the 14th Session of the Hague
17 Conference on Private International Law, apply if a parent abducts or wrongfully
18 retains a child in a foreign country.

19 Section 8. If a parent of the child lives in a foreign country or has
20 significant commitments in a foreign country:

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

25 (b) Upon motion of the parties, the Court may order the parent to post
26 a bond if the Court determines that the parent poses an imminent risk of wrongfully
27 removing or concealing the child outside the country of habitual residence. The
28 bond must be in an amount determined by the Court and may be used only to pay
for the cost of locating the child and returning him to his habitual residence if the
child is wrongfully removed from or concealed outside the country of habitual
residence. The fact that a parent has significant commitments in a foreign country
does not create a presumption that the parent poses an imminent risk of wrongfully
removing or concealing the child.

29 III. CHILD SUPPORT

30 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioner MITCHELL
31 DAVID STIPP pay child support to Petitioner CHRISTINA CALDERON STIPP as provided in
32 Section 1 of the Marital Settlement Agreement attached to this Decree as Exhibit 1.

33 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioners each pay
34 one-half (½) of all their minor children's medical, surgical, dental, orthodontic, optical, and

1 psychological expenses, as provided in Section 1 of the Marital Settlement Agreement attached to
2 this Decree as Exhibit 1.

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the child support
4 provisions set forth in the Section 1 of the parties' Marital Settlement Agreement (EXHIBIT 1),
5 specifically including, but not necessarily limited to, the provisions of Sections 1.2, 1.3, 1.4, and
6 1.5(a), are ratified, confirmed, and approved by the Court at this time, and the same are
7 incorporated into this Decree of Divorce as though the same were set forth in this Decree in full.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions for child
9 support provided in this Decree and in the parties' attached Marital Settlement Agreement are
10 subject to wage assignment with Petitioner MITCHELL DAVID STIPP's employer pursuant to the
11 provisions of Chapter 31A of the Nevada Revised Statutes and NRS 125.450.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of NRS
13 125B.145 allow the Court to modify the child support obligations provided in this Decree at least
14 every three years, without the need of making a finding of a change of circumstances. NRS
15 125B.145 provides as follows:

16 1. An order for the support of a child must, upon the filing of a request
17 for review by:

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

21 (b) A parent or legal guardian of the child,
22 be reviewed by the court at least every 3 years pursuant to this section to determine
23 whether the order should be modified or adjusted. Each review conducted pursuant
24 to this section must be in response to a separate request.

25 2. If the court:

26 (a) Does not have jurisdiction to modify the order, the court may
27 forward the request to any court with appropriate jurisdiction.

28 (b) Has jurisdiction to modify the order and, taking into account
the best interests of the child, determines that modification or adjustment of the
order is appropriate, the court shall enter an order modifying or adjusting the
previous order for support in accordance with the requirements of NRS 125B.070
and 125B.080.

3. The court shall ensure that:

1 (a) Each person who is subject to an order for the support of a
2 child is notified, not less than once every 3 years, that he may request a review of
the order pursuant to this section; or

3 (b) An order for the support of a child includes notification that
4 each person who is subject to the order may request a review of the order pursuant
to this section.

5 4. An order for the support of a child may be reviewed at any time on
6 the basis of changed circumstances.

7 5. As used in this section "order for the support of a child" means such
8 an order that was issued or is being enforced by a court of this state.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of NRS
10 125B.095 shall apply to any delinquent child support obligation required to be paid pursuant to this
Decree. In this regard, NRS 125B.095 provides as follows:

11 **NRS 125B.095 Penalty for delinquent payment of installment of**
12 **obligation of support.**

13 1. Except as otherwise provided in this section and NRS 125B.012, if
14 an installment of an obligation to pay support for a child which arises from the
15 judgment of a court becomes delinquent in the amount owed for 1 month's support,
16 a penalty must be added by operation of this section to the amount of the
17 installment. This penalty must be included in a computation of arrearages by a
court of this State and may be so included in a judicial or administrative proceeding
of another state. A penalty must not be added to the amount of the installment
pursuant to this subsection if the court finds that the employer of the responsible
parent or the district attorney or other public agency in this State that enforces an
obligation to pay support for a child caused the payment to be delinquent.

18 2. The amount of the penalty is 10 percent per annum, or portion
19 thereof, that the installment remains unpaid. Each district attorney or other public
agency in this State undertaking to enforce an obligation to pay support for a child
shall enforce the provisions of this section.

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall provide
21 the information required by NRS 125.130, NRS 125.230, and NRS 125B.055 on a separate form
22 to be submitted to the Court and the Welfare Division of the Department of Human Resources
23 ("Welfare Division") within ten days from the date of the entry of this Decree of Divorce. IT IS
24 FURTHER ORDERED that each party shall update such information submitted to this Court and
25 the Welfare Division within ten days should any of the information required to be provided become
26 inaccurate. IT IS FURTHER ORDERED that such information shall be maintained by the Clerk
27 of this Court and the Welfare Division in a confidential manner, and the same shall not be part of
28

1 the public records.

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court retains
3 jurisdiction of the parties and the subject matter hereof for the purpose of making such other and
4 further orders as relates to the care, custody, support and maintenance of the minor children of the
5 parties as to the Court may seem meet and proper from time to time hereafter during the minority
6 of said children.

7 IV. MERGER OF MARITAL SETTLEMENT AGREEMENT

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Marital Settlement
9 Agreement, a copy of which is attached to this Decree as EXHIBIT 1, be, and the same hereby is,
10 ratified, confirmed, and approved by this Court. As noted above in this Decree, by way of their
11 said Marital Settlement Agreement, the Court finds that the parties have settled and resolved all
12 questions and issues relating to the custody, visitation, and support of the parties' minor children,
13 as well as all questions and issues pertaining to the division of the parties' property, the assumption
14 of their debts, the payment of alimony, and all other issues relating or incident to their marriage to
15 each other. Therefore, pursuant to the express terms of the parties' Marital Settlement Agreement,
16 IT IS FURTHER ORDERED that, by this reference, the parties' Marital Settlement Agreement
17 *shall be merged and incorporated into and become a part of this Decree of Divorce* to the same
18 extent as if the Marital Settlement Agreement, in its entirety, were set forth in this Decree in full.

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party hereby is
20 directed to execute such certificates of title, deeds, bills of sale, or such other documentation as
21 may be required to transfer any right, title or interest he or she may have to the property of the party
22 entitled thereto by virtue of the division of assets as set forth in the parties' Marital Settlement
23 Agreement.

24 V. UNDISCLOSED PROPERTY

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, should it be discovered
26 that there are any assets, real, personal, or mixed, or any choses in action, securities, or other such
27 intangible property, not herein disposed of, then, upon discovery of the existence of the same, each
28 party shall be entitled to one-half (1/2) interest therein as his or her community interest, the same

1 to be disposed of, and the proceeds divided equally; or at the option of the one who possesses the
2 same, to pay the other for his or her one-half interest therein, and failure to do so shall entitle either
3 to appropriate Court relief, with all costs and attorneys' fees to be awarded to the prevailing party.
4 IT IS FURTHER ORDERED that, should it be discovered that there exist such other community
5 or jointly owned assets which have not been disclosed and divided pursuant to this Decree, either
6 party may move the Court (or a court having competent jurisdiction) for a partition of such asset(s)
7 at any time hereafter. IT IS FURTHER ORDERED that the failure of either party to disclose any
8 asset(s) constitutes extrinsic fraud, which will invoke the jurisdiction of the Court (or a court
9 having competent jurisdiction) to partition such undisclosed asset(s) at any future time. IT IS
10 FURTHER ORDERED that the party who does not have the actual physical possession or control
11 of the undisclosed asset (i.e., the "non-possessing party") shall be entitled to have his or her one-
12 half interest in any such property determined, at the election of the said non-possessing party, as
13 being equal to one-half of (i) the fair market value of such property on the date of the entry of this
14 Decree or Divorce; or (ii) the fair market value of such property at the time the non-possessing
15 party discovers that he or she has an interest in such property; or (iii) the total proceeds received
16 by the parties from the sale of the property. IT IS FURTHER ORDERED that the statute of
17 limitation applicable to any proceeding seeking to enforce rights pursuant to this paragraph shall
18 not begin to run until the non-possessing party's actual discovery of such additional property.

19 VI. ADDITIONAL ORDERS

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioner CHRISTINA
21 CALDERON STIPP shall continue to be know as CHRISTINA CALDERON-STIPP, with the
22 hyphenation of her last name, to wit: CALDERON-STIPP.

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1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Court's files and all papers,
2 records, proceedings, evidence, including exhibits, and any testimony transcripts be sealed
3 forthwith pursuant to NRS 125.110, and the same shall remain sealed until further order of this
4 Court.

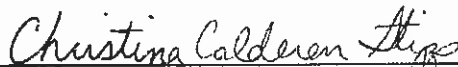
5 DATED this 5th day of March, 2008.


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8 
DISTRICT JUDGE
9

10 The parties to this action, Petitioner CHRISTINA CALDERON STIPP and Petitioner
11 MITCHELL DAVID STIPP, hereby STIPULATE AND AGREE to the Court's entry of the
Decree of Divorce set forth above, and each party agrees to fully comply with the same.

12 DATED: February 25, 2008

DATED: February 25, 2008


13
14 
15 CHRISTINA CALDERON STIPP
16 2055 Alcova Ridge Drive
17 Las Vegas, Nevada 89135
18 Petitioner in Proper Person

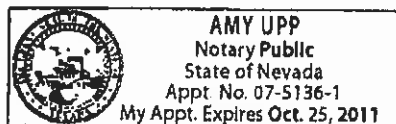
19 
20 MITCHELL DAVID STIPP
21 2055 Alcova Ridge Drive
22 Las Vegas, Nevada 89135
23 Petitioner in Proper Person

18 STATE OF NEVADA)
19) SS:
20 COUNTY OF CLARK)

21 On this 25th day of February, 2008, before me, the undersigned Notary Public in and for
22 said County and State, personally appeared CHRISTINA CALDERON STIPP and MITCHELL
23 DAVID STIPP, both known to me to be the persons described in and who executed the foregoing
24 immediately above, each of whom acknowledged to me that he or she did so freely and voluntarily
25 and for the uses and purposes therein mentioned.

26 Witness my hand and official seal.

27 
Notary Public



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EXHIBIT 1

ATTACHED IS A TRUE AND CORRECT COPY OF THE PARTIES'
MARITAL SETTLEMENT AGREEMENT
WHICH HAS BEEN MERGED INTO THIS DECREE OF DIVORCE

MARITAL SETTLEMENT AGREEMENT

THIS MARITAL SETTLEMENT AGREEMENT (this "Agreement") is made and entered into as of this 20th day of February 2008 (the "Effective Date") by and between Mitchell David Stipp ("Husband"), and Christina Calderon Stipp ("Wife" and, together with Husband, the "Parties," or individually, a "Party").

RECITALS

- A. The Parties were married in Las Vegas, Clark County, State of Nevada on July 18, 1997.
- B. The Parties have two (2) minor children of the marriage: Mia Elena Stipp ("Mia"), born on October 19, 2004, and Ethan Christopher Stipp ("Ethan" and, together with Mia, "Children," or individually, a "Child"), born on March 24, 2007.
- C. Wife filed for divorce against Husband in the Eighth Judicial District Court of the State of Nevada, Clark County District Court Case No. D360352, Department L, in July/August of 2006 (the "Action"). The Action was subsequently stayed and/or dismissed by mutual agreement of the Parties.
- D. The Parties have numerous disputes and differences and desire and intend to separate and live separate and apart one from the other.
- E. It is the mutual wish and desire of the Parties that a full and final adjustment and settlement of their property rights, interests and claims against each other be had, settled and determined by entering into this Agreement, including all issues described in the Action and support and maintenance of the Parties and Children.

NOW, THEREFORE, in consideration of the mutual promises, agreements, covenants, understandings, undertakings, representations and warranties hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree that the recitals set forth above are true and correct and are expressly incorporated and made a part of this Agreement, and further covenant and agree as follows:

I. MAINTENANCE AND SUPPORT OF CHILDREN

1.1. **CHILD CUSTODY.** The Parties shall have joint legal and physical custody of the Children. The Parties shall comply with the visitation schedule attached hereto as Exhibit A and incorporated herein by this reference. The Parties shall also comply with the following specific terms:

(a) Each Party shall make every effort to maintain free access and unhampered contact between the Children and the other Party. Neither Party shall do anything which shall estrange the Children from the other Party; injure the Children's opinion of the other Party; attempt to denigrate or degrade the other Party; or otherwise impair the natural development of the Children's love and respect for each of the Parties. Both Parties understand that parenting requires the acceptance of mutual responsibilities and rights insofar as the Children are concerned. Each Party agrees to communicate and cooperate with the other Party with respect to all matters relating to the Children. The Parties understand and agree that the best interests of the Children will be served by the Parties continuing to openly and freely communicate with each other in a civil manner and to cooperate with each other in raising the

Children. The Parties acknowledge and agree that their respective roles as joint legal custodians of the Children entail the following rights and responsibilities:

(i) Each Party shall consult and cooperate with the other in substantial questions relating to the religious upbringing, educational programs (including placement in, and removal from those programs), significant changes in social environment, and healthcare of the Children. Each Party shall have access to medical and school records pertaining to the Children and be permitted to independently consult with any and all professionals involved with the Children.

(ii) All schools, health care providers, day care providers, and counselors shall be selected jointly by the Parties. The Parties shall promptly keep each other apprised, in advance, of the Children's appointments with all medical providers, and shall be given a reasonable opportunity to participate therein, in person or telephonically.

(iii) Each Party shall be empowered to obtain emergency health care for the Children without the consent of the other Party. Each Party is to notify the other Party as soon as reasonably practicable of any illness requiring medical attention, or any emergency involving the Children.

(iv) Each Party is to provide the other Party, within fourteen (14) days of receipt, with any information concerning the well-being of the Children, including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notices of activities involving the Children; samples of school work; order forms for school pictures; all communications from health care providers and the names, addresses, and telephone numbers of all schools, health care providers, regular day care providers, and counselors. With regard to the exchange of medical documentation related to any claim of reimbursement for out-of-pocket medical expenses, the Parties shall be required to exchange such documentation within thirty (30) days of receipt, and shall pay requested reimbursement within thirty (30) days of receipt.

(v) Each Party shall advise the other Party of any and all school, athletic, church, and social events in which the Children participate and each Party agrees to so notify the other within a reasonable time after first learning of the future occurrence of any such event so as to allow the other Party to make arrangements to attend the event if he or she chooses to do so. Both Parties may participate in all such activities for the Children, such as open house, attendance at an athletic event, etc.

(b) Each Party is to provide the other Party with the address and telephone number at which the Children reside and to immediately notify the other Party prior to any change of address and further, to provide the telephone number of such address change as soon as it is assigned.

(c) Each Party shall provide the other Party with a travel itinerary (including trip dates, planned destination by address, and an estimated date and time of arrival back at the Children's place of residence), and, whenever reasonably possible, telephone numbers at which the Children can be reached whenever the Children will be away from that Party's home for a period of two (2) nights or more.

(d) The Parties shall encourage liberal and unhampered communication between the Children and the other Party. Each Party shall be entitled to reasonable telephone communication with the Children, at reasonable times of the day and night.

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1.2. **CHILD SUPPORT.** Subject to Section 1.4 below, Husband shall pay to Wife the sum of \$1,000.00 per month for each Child as and for child support beginning on the first day of the calendar month after the date in which the Decree of Divorce is entered by the Court in the Action until such time as the Child reaches the age of eighteen (18) years old [or the age of nineteen (19) if still enrolled in high school], marries, or becomes otherwise emancipated. The Parties certify that the amount of child support set forth in this Section 1.2 is consistent with the formula set forth in NRS 125B.070; provided, however, that the amount of child support exceeds the presumptive maximum amount set forth in NRS 125B.070.

1.3. **HEALTH CARE EXPENSES FOR WIFE AND THE CHILDREN.** Subject to Section 1.4 below, the Parties shall be equally responsible for the Children's health care expenses (medical, surgical, dental, orthodontic, and/or optical), and any premiums, deductibles, and co-pays associated therewith; provided, however, that Husband shall maintain medical, dental and optical insurance for Wife and each Child for as long as that coverage remains available through his employment at no cost or expense to Husband.

1.4. **REVIEW OF SUPPORT OBLIGATIONS.** Pursuant to NRS 125B.145, the Parties agree that the support obligations of the Parties as set forth in Sections 1.2 and 1.3 above may be reviewed by the Court to determine whether the support obligations should be modified or adjusted. Each review conducted pursuant to this Section 1.4 must be in response to a separate request by a Party.

1.5. **OTHER TERMS AND CONDITIONS.** The Parties further agree that they are subject to the following:

- (a) The provisions of NRS 31A.025 to 31A.350, inclusive, regarding the withholding or assignment of wages and commissions for delinquent payments of child support.
- (b) The provisions of NRS 200.359 for violation of the Court's Order are applicable to the Parties:

PENALTY FOR VIOLATION OF ORDER:

The abduction, concealment or detention of a child in violation of this Order is punishable as a category D felony as provided in NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

- (c) Pursuant to NRS 125.510(7) and (8), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law are applicable to the Parties:

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

- (a) The parties may agree, and the Court shall include in the Order for custody of the child, that the United

States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.

- (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parents pose an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child."

- (d) The State of Nevada is the habitual residence of the Children.

II. COMMUNITY PROPERTY AND DEBT

2.1. **COMMUNITY PROPERTY.** In order to achieve an equitable apportionment of the community property acquired by the Parties during the period of their marriage, the following division of community property shall apply beginning on the Effective Date:

(a) Husband grants, transfers, conveys and assigns to Wife all of his right, title and interest in and to the following property which shall be the sole and separate property of Wife, free and clear of any and all rights, interests, and claims of Husband (including any marital or other property rights), as of the Effective Date:

(i) The sum of \$1,826,000.00.

(ii) Wife's 401(k) as part of Morris Pickering & Peterson Retirement Plan in the approximate amount of \$60,000.00.

(iii) The membership interests owned by Stipp Family Trust dated October 13, 2004 (the "Trust"), in 1005 Hickory Park, LLC, a Nevada limited liability company ("Hickory Park"), which owns the real property designated by the Clark County Assessor's Office as APN 137-35-815-011 and all improvements thereon including the 1,943 square foot residential dwelling (the "Secondary Residence"). Husband and Wife as trustees of the Trust shall execute and deliver the form of assignment of membership interests attached hereto as Exhibit B and incorporated herein by this reference pursuant to which Husband shall resign as manager of Hickory Park and Wife shall become the sole manager and member of Hickory Park. The value of the Secondary Residence is approximately \$325,000 as of the Effective Date. The Secondary Residence is not subject to any mortgage. Wife through her ownership of Hickory Park shall own the Secondary Residence.

(iv) The membership interests owned by the Trust in Stipp Law Group, Ltd, a Nevada professional corporation ("Stipp Law"). Husband and Wife as trustees of the Trust shall

execute and deliver the form of assignment of stock attached hereto as Exhibit C and incorporated herein by this reference pursuant to which Wife shall become the sole stockholder of Stipp Law. The value of Stipp Law is approximately \$100.00 as of the Effective Date.

(v) All checking, savings, money market or other accounts in the name of Wife and/or Stipp Law in existence as of the Effective Date.

(vi) Leasehold interest in 2008 Range Rover.

(vii) Wife's clothing, jewelry and personal items.

(viii) Wife's Loan (as defined in Section 2.2(c)).

(b) Wife grants, transfers, conveys and assigns to Husband all of her right, title and interest in and to the following property which shall be the sole and separate property of Husband, free and clear of any and all rights, interests, and claims of Wife (including any marital or other property rights), as of the Effective Date:

(i) All remaining cash in bank account at Wells Fargo, N.A., in the name of Husband, which after the payment(s) made by Husband to Wife as set forth in Section 2.1(a)(i), will be approximately \$508,500.00.

(ii) Husband's 401(k) as part of Kummer Kaempfer Bommer Renshaw & Ferrario's 401(k) Profit Sharing Plan and Plise Companies' Retirement Plan in the approximate amounts of \$55,000.00 and \$95,000.00, respectively.

(iii) The membership interests owned by the Trust, in Stipp Investments, LLC, a Nevada limited liability company ("Husband LLC"), which owns a profit interest in Aquila Investments, LLC, a Nevada limited liability company ("Aquila"). Aquila owns membership interests in several limited liability companies which own various real estate developments in Las Vegas and Henderson, Nevada. Husband and Wife as trustees of the Trust shall execute and deliver the form of assignment attached hereto as Exhibit D and incorporated herein by this reference. The value of Husband LLC's profit interest in Aquila is approximately \$100.00 as of the Effective Date.

(iv) The membership interests owned by the Trust, in 2055 Alcova Ridge, LLC, a Nevada limited liability company ("Alcova Ridge"), which owns the real property designated by the Clark County Assessor's Office as APN 164-02-220-014 and all improvements thereon including the 5,224 square foot residential dwelling ("Marital Residence"). Husband and Wife as trustees of the Trust shall execute and deliver the form of assignment of membership interests attached hereto as Exhibit E and incorporated herein by this reference pursuant to which Husband shall become the sole member of Alcova Ridge. The value of Alcova Ridge is approximately \$2,000,000.00 as of the Effective Date. The Marital Residence is subject to a mortgage from Countrywide Home Loans (Account No. 112575809) in the approximate amount of \$1,000,000.00 (the "Marital Residence Mortgage").

(v) All contents of the Marital Residence including, without limitation, all furniture, furnishings, appliances, fixtures, and equipment located in or used in connection with the Marital Residence but expressly excluding the items identified in Section 2.1(a)(vii) above and the clothing and personal items of the Children. Husband and Wife as trustees of the Trust and individually shall execute and deliver the form of bill of sale attached hereto as Exhibit F and incorporated herein by

this reference pursuant to which Husband shall become the sole owner of the items described in this Section 2.1(b)(v).

(vi) Leasehold interest in 2008 BMW M6.

(vii) Leasehold, license or other use right in 2007 Mercedes S65 AMG leased by Plise Companies.

(viii) Husband's clothing, jewelry, tools, guns, and personal items.

(c) Each Party represents and warrants that he or she has made full, complete and accurate disclosure of all the assets of the Parties that have value that exceeds individually or in the aggregate the sum of \$10,000.00.

(d) Husband and Wife shall close all joint accounts and all accounts in the name of the Trust on or before the date in which the Decree of Divorce is entered by the Court in the Action.

(e) Husband and Wife hereby acknowledge that, based upon the mutual representations made to each other, the distribution of their community property estate herein is a substantially equal division of the community property and both hereby confirm the property identified in Sections 2.1(a) and (b) above to the other, as appropriate, as his or her sole and separate property.

(f) Any and all property acquired by either of the Parties from and after the Effective Date shall be the sole and separate property of the Party acquiring the same and each of the Parties hereby confirms to the other Party that all such acquisitions of property shall be the sole and separate property of the Party acquiring the same.

(g) Each of the Parties shall have an immediate right to dispose of or bequeath by will his or her respective interests in and to any and all property belonging to him or her from and after the Effective Date, and that such right shall extend to all property acquired after the Effective Date as well as to all property identified in Sections 2.1(a) and (b) above.

(h) Each of the Parties hereby waives and releases any and all right to the estate of the other left at his or her death and forever grants, transfers, conveys and assigns any and all right to share in the estate of the other by the laws of succession, and each of the Parties hereby waives and releases the other Party from all rights to inherit from the other. Furthermore, the Parties hereby renounce, one to the other, all right to be administrator or administratrix, executor or executrix, of the estate of the other, and the Parties hereby waive and release any and all right to the estate or any interest in the estate of the other by way of inheritance, or otherwise, for family allowance therein or therefrom, to a probate or other homestead upon any property of the other, and to have set aside to him or her any property of the other exempt from execution, and from the Effective Date to the end of the world, the waiver and release by each of the Parties in the estate of the other Party shall be effective, and the Parties shall have all the rights of single persons and maintain the relationship of such toward each other.

2.2. ASSUMPTION OF COMMUNITY DEBTS. Husband and Wife agree that there are no known community debts of the Parties other than the debts encumbering the property awarded to each other as set forth in Section 2.1 above, and that each Party accepts their respective property "as-is" and "with all faults," including, without limitation, the encumbrances of any community debt.

(a) Wife hereby individually and solely assumes and agrees to keep, perform, fulfill and observe all of the terms, covenants, obligations, agreements and conditions required to be kept, performed, fulfilled and observed by Husband and/or Wife with respect to any and all debts, obligations and liabilities arising from or in any way connected with the property identified in Section 2.1(a) above. Wife agrees and acknowledges that Wife shall be individually and solely responsible for any and all debts, obligations and liabilities which may be due and payable and which were incurred by Wife subsequent to the Effective Date. Wife agrees to indemnify, defend, and hold Husband harmless from and against any and all liability, loss, cost, damage and expense (including, without limitation, reasonable attorneys' fees and costs) directly or indirectly arising out of Wife's failure to keep, perform, fulfill, and observe any of the terms, covenants, obligations, agreements, and conditions required to be kept, performed, fulfilled, and observed by Wife pursuant to this Section 2.2(a).

(b) Husband individually and solely assumes and agrees to keep, perform, fulfill and observe all of the terms, covenants, obligations, agreements and conditions required to be kept, performed, fulfilled and observed by Husband and/or Wife with respect to any and all debts, obligations and liabilities arising from or in any way connected with the property identified in Section 2.1(b) above, including, without limitation, the Marital Residence Mortgage. Husband agrees and acknowledges that Husband shall be individually and solely responsible for any and all debts, obligations and liabilities which may be due and payable and which were incurred by Husband subsequent to the Effective Date. Husband agrees to indemnify, defend, and hold Wife harmless from and against any and all liability, loss, cost, damage and expense (including, without limitation, reasonable attorneys' fees and costs) directly or indirectly arising out of Husband's failure to keep, perform, fulfill, and observe any of the terms, covenants, obligations, agreements, and conditions required to be kept, performed, fulfilled, and observed by Husband pursuant to this Section 2.2(b).

(c) Within fifteen (15) days after the Effective Date, Wife shall provide a loan to Alcova Ridge from the sum received in Section 2.1(a)(i) above which shall be secured by the Marital Residence and guaranteed by Husband ("Wife's Loan") to refinance the Marital Residence Mortgage. Wife's Loan shall be in the amount of \$1,000,000.00 and accrue interest at 6.375% per year for a term of thirty (30) years subject to Wife's sole and exclusive right to advance the maturity of the loan to any time after the first twelve (12) months from initial funding with ninety (90) days' written notice. Alcova Ridge shall be required to make interest only payments under Wife's Loan which shall be due and payable monthly in arrears.

(d) Husband and Wife shall not borrow from and shall close all lines of credit in their joint names on or before the date in which the Decree of Divorce is entered by the Court in the Action, including, without limitation, the line of credit provided by Bank of America, N.A. and secured by the Parties' former marital residence located at 3250 Santolina Drive, Las Vegas, Nevada 89135 and the line of credit provided by Countrywide Home Loans secured by the Marital Residence.

2.3. TAX PROVISIONS.

(a) Husband and Wife shall file a joint return for the tax year of 2007. Husband shall cause the tax returns to be prepared and timely filed for Husband LLC, Stipp Law and the joint return for Husband and Wife subject to the review and approval of Wife, which approval shall not be unreasonably withheld, conditioned or delayed. Husband shall provide Wife copies of these returns at least fourteen (14) days prior to any filing deadline (or extension thereof) to review and approve any such tax return. Husband and Wife shall be equally responsible for the costs and expenses of preparing and filing these tax returns as well as any tax obligations or liabilities for the tax year of 2007 or any prior tax year.

(b) Husband and Wife shall file separate tax returns for the tax year of 2008. Husband shall claim all income actually earned by Husband for the tax year of 2008 on his tax return, and Wife shall claim all income actually earned by Wife for the tax year of 2008 on her tax return.

(c) Husband and Wife shall be entitled to and share equally all refunds, overpayments, tax loss carry forwards and benefits that exist with regard to previous tax returns filed for Husband and Wife, Husband LLC and Stipp Law.

(d) Husband shall be entitled to claim the Children as dependents on his tax return for the tax year of 2008. Husband shall be entitled to claim Mia as a dependent and Wife shall be entitled to claim Ethan as a dependent on their respective tax returns for all tax years thereafter.

(e) Husband shall be entitled to the interest expense deduction related to the Marital Residence Mortgage on his tax return for the tax year of 2008.

(f) Husband and Wife hereby elect to have the division of their marital estate treated as a non-taxable transfer between spouses.

(g) Husband and Wife agree and acknowledge that each of them has had an opportunity to discuss with independent tax advisors concerning the income and estate tax implications and consequences with respect to the agreed upon division of property and indebtedness as set forth in this Agreement.

III. MUTUAL RELEASE

3.1. **RELEASE BY WIFE.** Wife, individually and in her capacity as an officer of Stipp Law, hereby fully releases and discharges Husband and Husband LLC and their respective insurance carriers and sureties and their respective affiliates, successors and assigns and their respective officers, directors, managers, members, stockholders, employees, representatives, agents, attorneys and professional advisors (in their individual and representative capacities) of and from all manner of action or actions, cause or causes of action, suits, judgments, demands, rights, debts, agreements, promises, liabilities, losses, damages (whether general, special or punitive), attorneys' fees (whether incurred prior to or after the Effective Date), liens, indemnities, costs and expenses, of every nature, character, description and amount, without limitation or exception, whether known or unknown, suspected or unsuspected, whether based on theories of contract, breach of contract, breach of the covenant of good faith and fair dealing, tort, violation of statute or ordinance, or equitable theory of recovery, or any other theory of liability or declaration of rights whatsoever as of the Effective Date (collectively, "Wife Claims"). Wife acknowledges and agrees that Wife's Claims expressly include all rights and claims against Husband for temporary or permanent alimony and/or support.

3.2. **RELEASE BY HUSBAND.** Husband, individually and in his capacity as an officer of Husband LLC, Chaparral Contracting, Inc., a Nevada corporation, and Aquila Management, LLC, a Nevada limited liability company, for itself and as the manager of all limited liability companies related to or affiliated with William W. Plise, hereby fully releases and discharges Wife and her insurance carriers and sureties and their respective affiliates, successors and assigns and their respective officers, directors, managers, members, stockholders, employees, representatives, agents, attorneys and professional advisors (in their individual and representative capacities) of and from all manner of action or actions, cause or causes of action, suits, judgments, demands, rights, debts, agreements, promises, liabilities, losses, damages (whether general, special or punitive), attorneys' fees (whether incurred prior to or after the Effective Date), liens, indemnities, costs and expenses, of every nature, character,

description and amount, without limitation or exception, whether known or unknown, suspected or unsuspected, whether based on theories of contract, breach of contract, breach of the covenant of good faith and fair dealing, tort, violation of statute or ordinance, or equitable theory of recovery, or any other theory of liability or declaration of rights whatsoever as of the Effective Date (collectively, "Husband Claims" and, together with the Wife Claims, the "Claims").

3.3. COMPROMISE OF CLAIMS. The Parties, and each of them, acknowledge that they may hereafter discover facts different from, or in addition to, those facts that they now believe to be true with respect to any and all of the Claims released. Nevertheless, the Parties, and each of them, hereby agree that the releases set forth in Sections 3.1 and 3.2 above shall be and remain effective in all respects pursuant to the terms and conditions of this Agreement, notwithstanding the discovery of such different or additional facts. To that end, the Parties specifically and voluntarily waive any statutory or legal right, rule, decision or doctrine limiting the scope of the releases to include only Claims known or suspected by the Parties as of the date of the release, regardless of whether any unknown or unsuspected Claims would have materially affected the Parties' decision to enter into this Agreement. The Parties agree and acknowledge that this Agreement is intended to settle finally, conclusively and forever the rights of the Parties in all respects arising out of their marital relationship. Notwithstanding anything to the contrary contained herein, the Parties do not release one another from their respective duties, obligations and liabilities under this Agreement, or the agreements contemplated hereby. Each Party expressly reserves all of its rights and remedies with respect to the performance of this Agreement by the other Party.

IV. MISCELLANEOUS

4.1 ACKNOWLEDGEMENT. Each Party acknowledges that he or she has been given a reasonable period of time to study this Agreement before signing it and has had an opportunity to secure counsel of his or her own. Each Party certifies that he or she has fully read and completely understands the terms, nature, and effect of this Agreement. Each Party further acknowledges that he or she is executing this Agreement freely, knowingly, and voluntarily and that his or her execution of this Agreement is not the result of any fraud, duress, mistake, or undue influence whatsoever. In executing this Agreement, each Party does not rely on any inducements, promises, or representations by the other Party other than that which are stated in this Agreement.

4.2 FURTHER ASSURANCES. Each of the Parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder to carry out the intent of the Parties. Should either Party fail to execute and/or deliver any of the documents contemplated hereby to transfer the property described in Section 2.1 above, this Agreement shall constitute a full and complete transfer of the property as herein provided.

4.3 ENTIRE AGREEMENT. This Agreement contains the entire agreement between the Parties and supersedes all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, between the Parties with respect to the subject matter contained herein. This Agreement shall be taken as the full and final marital settlement agreement between the Parties, and it is agreed that a copy of this Agreement shall be offered to the Court in the Action, and the Court shall be requested to ratify, confirm and approve the same, and this Agreement shall by reference be merged into and become a part of the Decree of Divorce to be entered by the Court as if fully set forth therein.

4.4 AMENDMENT OR WAIVER. This Agreement cannot be changed, modified or amended without the consent in writing of both of the Parties. No waiver by either Party at any time of any breach by the other Party of any condition or provision of this Agreement shall be deemed a waiver of a similar

or dissimilar condition or provision at the same or at any prior or subsequent time. Any waiver must be in writing and signed by the waiving Party.

4.5 NOTICES. Any and all notices and demands required or desired to be given hereunder shall be in writing and shall be validly given only if personally delivered; deposited in the United States mail, certified or registered, postage prepaid, return receipt requested; made by Federal Express or similar delivery service which keeps records of deliveries and attempted deliveries; or by email. Service shall be conclusively deemed made on the first business day delivery is attempted or upon receipt, whichever is sooner, and addressed as follows:

IF TO HUSBAND: Mitchell Stipp
5550 Painted Mirage Road, Suite 500
Las Vegas, Nevada 89149
Email: Mitchell@plise.com

IF TO WIFE: Christina Stipp
3136 Donnegal Bay Drive
Las Vegas, Nevada 89117
Email: ccstipp@hotmail.com

The address to which such notices and demands are to be given pursuant to this Section 4.3 may be changed at any time by a written notice given in the manner aforesaid, which notice of change of address shall not become effective, however, until the actual receipt thereof by the addressee.

4.6. SEVERABILITY. The provisions of this Agreement shall be severable and the invalidity, illegality or unenforceability of any provision of this Agreement shall not affect, impair or render unenforceable this Agreement or any other provision hereof, all of which shall remain in full force and effect. If any provision of this Agreement is determined to be invalid, illegal or otherwise unenforceable, but such provision may be made enforceable by a limitation or reduction of its scope, the Parties agree to abide by such limitation or reduction as may be necessary so that said provision shall be enforceable to the fullest extent permitted by law.

4.7. ATTORNEYS' FEES. If there is any legal action or proceeding, including any mediation or arbitration proceeding, to enforce or interpret any provision of this Agreement or to protect or establish any right or remedy of any Party hereto, the unsuccessful Party to such action or proceeding, whether such action or proceeding is settled or prosecuted to final judgment, shall pay to the prevailing Party as finally determined, all costs and expenses, including reasonable attorneys' fees and costs, incurred by such prevailing Party in such action or proceeding, in enforcing such judgment, and in connection with any appeal from such judgment. Husband and Wife agree to pay his or her respective attorneys' fees and costs incurred in the preparation of this Agreement and in the representation of each in the Action.

4.8. SURVIVAL. The respective rights and obligations of the Parties shall survive any expiration or termination of this Agreement to the extent necessary to the intended preservation of such rights and obligations.

4.9. GOVERNING LAW. This Agreement shall be governed by and construed under the substantive and procedural laws of the State of Nevada, disregarding any principles of conflicts of law that would otherwise provide for the application of the substantive law of another jurisdiction. The

Parties submit to the exclusive jurisdiction of the state and federal courts located in Clark County, Nevada for the purposes of any and all legal proceedings arising out of or relating to this Agreement or the transactions contemplated thereby. Each Party hereby irrevocably waives any objection to venue and any claim that such a proceeding has been brought in an inconvenient forum, with respect to any such proceeding that is brought in the state and federal courts located in Clark County, Nevada.

4.10. HEADINGS. The headings of the sections contained in this Agreement are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Agreement.

4.11. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

4.12. BINDING EFFECT. Every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, transferees, assigns, heirs and personal representatives.

4.13. NEUTRAL INTERPRETATION. The provisions contained herein shall not be construed in favor of or against any Party because that Party or its counsel drafted this Agreement, but shall be construed as if all Parties prepared this Agreement, and any rules of construction to the contrary are hereby specifically waived.

4.14. EFFECTIVENESS. This Agreement shall take effect upon the Effective Date; provided, however, that the terms and conditions of this Agreement that require the approval of the Court in the Action shall be subject to such approval. Notwithstanding the foregoing, in the event that the Decree of Divorce is not entered by the Court in the Action, the Parties hereby agree that the provisions governing the disposition of community property, liability for community debt, and mutual release of claims as set forth in this Agreement shall remain in full force and effective as a post-nuptial agreement between the Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

Mitch Stipp

Mitchell Stipp, individually and for purposes of Section 3.2, as an officer of Stipp Investments, LLC, Chaparral Contracting, Inc., a Nevada corporation, and Aquila Management, LLC, a Nevada limited liability company, for itself and as the manager of all limited liability companies related to or affiliated with William W. Plise.

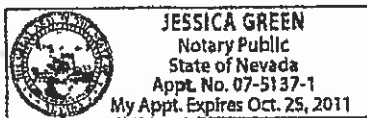
Christina Calderon Stipp

Christina Calderon Stipp, individually and for purposes of Section 3.1, as an officer of Stipp Law Group, Ltd.

ACKNOWLEDGEMENT

STATE OF NEVADA } ss.
COUNTY OF CLARK

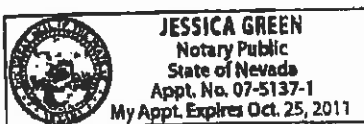
This instrument was acknowledged before me on this 20th day of February 2008 by Mitchell Stipp.



J. Green
Notary Public in and for Said County and State

STATE OF NEVADA } ss.
COUNTY OF CLARK

This instrument was acknowledged before me on this 20th day of February 2008 by Christina Calderon Stipp.



J. Green
Notary Public in and for Said County and State

ccs mg

EXHIBIT A

Visitation Schedule

1. **Normal Visitation:** Wife shall have the Children from 6:00 p.m. on Sundays until 6:00 p.m. on Fridays, and Husband shall have the Children from 6:00 p.m. on Fridays until 6:00 p.m. on Sundays; provided, however, that upon three (3) days' prior written notice to Husband, Wife shall have the right to have the Children on the first weekend of every month in which case Husband shall not have normal visitation.
2. **Holiday Visitation:** In the event one Party's right to exercise holiday visitation conflicts with the other Party's right to exercise normal or vacation visitation, the holiday visitation shall take precedence over the normal or vacation visitation. The Parties shall have holiday visitation with the Children as follows:
 - (a) **Martin Luther King Day Weekend:** Martin Luther King Day is celebrated on the third Monday in January. The weekend will be defined as commencing at 6:00 p.m. on the Friday before the holiday and ending at 6:00 p.m. on the holiday. Wife will have the Children for Martin Luther King Weekend in all even-numbered years and Husband will have the Children for this weekend in all odd-numbered years. Wife shall have the right to forego visitation of the Children on Martin Luther King Day Weekend upon three (3) days' prior written notice to Husband in which case normal visitation rules apply.
 - (b) **Presidents Day Weekend:** Presidents Day is celebrated on the third Monday in February. The weekend will be defined as commencing at 6:00 p.m. on the Friday before the holiday and ending at 6:00 p.m. on the holiday. Husband will have the Children for Presidents Day Weekend in all even-numbered years and Wife will have the Children for this weekend in all odd-numbered years. Wife shall have the right to forego visitation of the Children on Presidents Day Weekend upon three (3) days' prior written notice to Husband in which case normal visitation rules apply.
 - (c) **Easter Day:** Easter Day is celebrated on Sundays. Husband will have the Children until 2:00 p.m. on Easter Day and Wife will have the Children after 2:00 p.m. on Easter Day.
 - (d) **Memorial Day Weekend:** Memorial Day is celebrated on the last Monday in May. The weekend shall be defined as commencing at 6:00 p.m. on the Friday before the holiday and ending at 6:00 p.m. on the holiday. Wife will have the Children for the Memorial Day Weekend in all even-numbered years and Husband will have the Children for this weekend in all odd-numbered years. Wife shall have the right to forego visitation of the Children on Memorial Day Weekend upon three (3) days' prior written notice to Husband in which case normal visitation rules apply.
 - (e) **Father's Day/Mother's Day:** These holidays are celebrated on Sundays and will be defined as commencing at 9:00 a.m. and ending at 6:00 p.m. on the holidays. Husband will have the Children each year on Father's Day and Wife will have the Children each year on Mother's Day.
 - (f) **Independence Day:** Independence Day will be defined as commencing at 6:00 p.m. on the day before the holiday and ending at 9:00 a.m. on the day after the holiday. Wife

(A-1)

ccs N8

will have the Children for Independence Day in all even-numbered years and Husband will have the Children for this holiday in all odd-numbered years.

- (g) **Labor Day Weekend:** Labor Day is celebrated on the first Monday in September. The weekend shall be defined as commencing at 6:00 p.m. on the Friday before the holiday and ending at 6:00 p.m. on the holiday. Husband will have the Children for the Labor Day Weekend in all even-numbered years and Wife will have the Children for this weekend in all odd-numbered years. Wife shall have the right to forego visitation of the Children on Labor Day Weekend upon three (3) days' prior written notice to Husband in which case normal visitation rules apply.
- (h) **Halloween Night:** Halloween Night will be defined as commencing at 3:00 p.m. on the holiday and ending at 8:30 p.m. on the holiday. Wife will have the Children for Halloween Night in all even-numbered years and Husband will have the Children for Halloween Night in all odd-numbered years.
- (i) **Veterans Day:** Veterans Day is generally observed on November 11th every year. For the purposes of this schedule, Veterans Day will be defined as commencing at 6:00 p.m. on the day immediately preceding the holiday and ending at 6:00 p.m. on the holiday. Husband will have the Children for Veterans Day in all even-numbered years and Wife will have the Children for Veterans Day in all odd-numbered years.
- (j) **Thanksgiving Weekend:** The Thanksgiving holiday will be divided into two periods, with Period One commencing at 4:00 p.m. on Thanksgiving Day and continuing to 6:00 p.m. on the Saturday immediately following Thanksgiving Day; and Period Two commencing at 6:00 p.m. on the Saturday immediately following Thanksgiving Day and ending at 6:00 p.m. on the Sunday immediately following Thanksgiving Day. Husband will have the Children during Period One and Wife will have the Children during Period Two in all years.
- (k) **Christmas Holiday:** The Christmas holiday shall be divided into two periods, with Period One commencing at 9:00 a.m. on December 24th and continuing to 9:00 a.m. on December 25th, and Period Two commencing at 9:00 a.m. December 25th and continuing to 6:00 p.m. on the same day. Wife will have the Children during Period One and Husband will have the Children during Period Two in all years.
- (l) **New Year's Day:** New Year's Day is observed on January 1st every year. For the purposes of this schedule, New Year's Day will be defined as commencing at 6:00 p.m. on the day immediately preceding the holiday and ending at 6:00 p.m. on the holiday. Husband will have the Children for New Year's Day in all even-numbered years and Wife will have the Children for New Year's Day in all odd-numbered years.
- (m) **Children's Birthdays:** Wife shall have the right upon three (3) days' prior written notice to Husband to have the Children on the Saturday immediately preceding a Child's birthday in which case Husband's normal visitation shall be from 9:00 a.m. to 6:00 p.m. on Sunday.
- (n) **Parents' Birthdays:** Each Party shall have the right upon three (3) days' prior written notice to the other Party to have the Children from 9:00 a.m. to 6:00 p.m. on their respective birthdays.

A-2

ccs MB

3. **Vacation Visitation:** In the event one Party's right to exercise vacation visitation conflicts with the other Party's right to exercise normal visitation, vacation visitation shall take precedence over normal visitation. Each Party shall be permitted to have the Children for two (2) consecutive weeks for the purpose of taking a vacation. The Party wishing to exercise such vacation visitation must provide the other Party with at least fifteen (15) days' written notice of intent to do so.

4. **Other Visitation:** The Parties shall have other visitation at such times and days upon which the Parties shall agree.

EXHIBIT B
[SEE ATTACHED]

(B-1)

ccs *ms*

ASSIGNMENT OF INTEREST IN LIMITED-LIABILITY COMPANY
1005 Hickory Park, LLC

Mitchell Stipp and Christina Stipp, as Trustees of the Stipp Family Trust dated October 13, 2004, hereby assign, transfer, and convey (collectively, the "Transfer") all of the rights, title, interest, and estate in and to one hundred percent (100%) ownership interest (the "Interests") in 1005 Hickory Park, LLC, a Nevada limited liability company (the "Company"), to Christina Calderon Stipp, as her sole and separate property. The Transfer of the Interests in the Company is to be effective as of February 20, 2008 (the "Effective Date").

Stipp Family Trust dated October 13, 2004

By: Mitchell Stipp
Name: Mitchell Stipp
Its: Trustee

By: Christina Calderon Stipp
Name: Christina Stipp
Its: Trustee

ACKNOWLEDGEMENT, WAIVER AND RESIGNATION

The undersigned hereby (a) acknowledges and consents to the Transfer of the Interests in the Company, (b) waives any marital rights or other property rights that the undersigned may have with respect to the ownership of the Interests in the Company, and (c) resigns as manager of the Company effective as of the Effective Date.

Mitchell Stipp
Mitchell Stipp

ccs MB

EXHIBIT C
[SEE ATTACHED]

(C-1)

ccs / ps

ASSIGNMENT OF STOCK
Stipp Law Group, Ltd.

Mitchell Stipp and Christina Stipp, as Trustees of the Stipp Family Trust dated October 13, 2004, hereby assign, transfer, and convey (collectively, the "Transfer") all of the rights, title, interest, and estate in and to one hundred percent (100%) ownership interest (the "Interests") in Stipp Law Group, Ltd., a Nevada professional corporation (the "Company"), to Christina Calderon Stipp, as her sole and separate property. The Transfer of the Interests in the Company is to be effective as of February 20, 2008 (the "Effective Date").

Stipp Family Trust dated October 13, 2004

By: Mitchell Stipp
Name: Mitchell Stipp
Its: Trustee

By: Christina Calderon Stipp
Name: Christina Stipp
Its: Trustee

ACKNOWLEDGEMENT, WAIVER AND RESIGNATION

The undersigned hereby (a) acknowledges and consents to the Transfer of the Interests in the Company, (b) waives any marital rights or other property rights that the undersigned may have with respect to the ownership of the Interests in the Company, and (c) resigns as an officer and/or director of the Company effective as of the Effective Date.

Mitchell Stipp
Mitchell Stipp

ccs MS

EXHIBIT D
[SEE ATTACHED]

(21)

ccs *ms*

ASSIGNMENT
Stipp Investments, LLC

THIS ASSIGNMENT (this "Assignment") is entered into as of this 20th day of February, 2008 (the "Effective Date") by and among Mitchell Stipp and Christina Stipp, as Trustees of the Stipp Family Trust dated October 13, 2004 ("Assignor"), Mitchell Stipp, an individual ("Assignee"), Christina Calderon Stipp, an individual ("Spouse of Assignee"), and Stipp Investments, LLC, a Nevada limited liability company (the "Company").

NOW THEREFORE, in consideration of the mutual agreements, covenants, and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. Assignor hereby assigns, transfers, and conveys (collectively, the "Transfer") all of the rights, title, interest, and estate in and to one hundred percent (100%) ownership interest (the "Interests") in the Company to Assignee, as his sole and separate property, subject to the rights of Spouse of Assignee set forth in Section 2 below. The Transfer of the Interests in the Company is to be effective as of the Effective Date.

2. Rights of Spouse of Assignee. As of the Effective Date, Spouse of Assignee shall have as her sole and separate property the rights only to fifty percent (50%) of the distributions received by the Company from Aquila Investments, LLC, a Nevada limited liability company and its successors and assigns ("Aquila"); provided, however, that Spouse of Assignee shall not be entitled to receive and hereby waives and releases her rights to any portion of the first \$250,000.00 in distributions received from Aquila after the Effective Date (the "Spouse's Rights"). Spouse of Assignee shall be obligated to pay and be liable for all federal, state and local taxes arising out of the payment of any distributions to Spouse of Assignee as part of the Spouse's Rights. The Company shall pay to Spouse of Assignee within five (5) days of receipt any distributions required to be paid to Spouse of Assignee hereunder. The Spouse's Rights expressly exclude any and all other property or economic rights (allocations of profits, losses and other distributions) and the rights of a member of the Company under the Nevada Revised Statutes, as amended, or the organizational documents of the Company, including, without limitation, any voting, consent or approval rights. The term "distributions" as used in this Section 2 shall have the meaning assigned to it in Aquila's Amended and Restated Operating Agreement effective January 1, 2006 which is incorporated herein by this reference.

3. Acceptance and Consent. As of the Effective Date, the Company consents to the Transfer of the Interests in the Company to Assignee and Assignee hereby accepts the same subject to Spouse's Rights. Spouse of Assignee accepts the Spouse's Rights and waives any marital rights or other property rights that she may have with respect to the ownership of the Interests in the Company except with respect to the Spouse's Rights. Assignee waives any marital rights or other property rights that he may have with respect to the Spouse's Rights.

4. No Assignment. Except as permitted in writing by the Company and Assignee, Spouse of Assignee shall not transfer all or a part of the Spouse's Rights by any sale, exchange, assignment, bequeath, gift, pledge, hypothecation, encumbrance, transfer, or other alienation in any manner, whether voluntary, involuntary or by operation of law (including, without limitation, the laws of bankruptcy, insolvency, intestacy, descent, marital property division and distribution and succession) (each, a "Prohibited Transfer"). Upon the occurrence of a Prohibited Transfer, the Spouse's Rights shall expire, lapse and/or terminate.

ccs 

5. Further Assurances. The parties hereto each covenant that said party will, at any time and from time to time following a written request therefor, execute and deliver any additional or confirmatory instruments and take such further acts as the other parties may reasonably request to evidence fully the Transfer of the Interests in the Company and the Spouse's Rights.

6. Nevada Law. This Assignment shall be governed by and construed under the substantive and procedural laws of the State of Nevada, disregarding any principles of conflicts of law that would otherwise provide for the application of the substantive law of another jurisdiction.

7. Counterparts. This Assignment may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have entered into this Assignment as of the Effective Date.

ASSIGNOR

Stipp Family Trust dated October 13, 2004

By: Mitchell Stipp

Name: Mitchell Stipp

Its: Trustee

By: Christina Calderon Stipp

Name: Christina Stipp

Its: Trustee

ASSIGNEE

Mitchell Stipp
Mitchell Stipp

SPOUSE OF ASSIGNEE

Christina Calderon Stipp
Christina Calderon Stipp

COMPANY

Stipp Investments, LLC, A Nevada limited liability company

By: Mitchell Stipp

Name: Mitchell Stipp

Its: Manager

cas / NB

EXHIBIT E
[SEE ATTACHED]

(S-1)

ccs / *[Signature]*

ASSIGNMENT OF INTEREST IN LIMITED-LIABILITY COMPANY
2055 Alcova Ridge, LLC

Mitchell Stipp and Christina Stipp, as Trustees of the Stipp Family Trust dated October 13, 2004, hereby assign, transfer, and convey (collectively, the "Transfer") all of the rights, title, interest, and estate in and to one hundred percent (100%) ownership interest (the "Interests") in 2055 Alcova Ridge, LLC, a Nevada limited liability company (the "Company"), to Mitchell Stipp, as his sole and separate property. The Transfer of the Interests in the Company is to be effective as of February 20, 2008 (the "Effective Date").

Stipp Family Trust dated October 13, 2004

By: Mitchell Stipp
Name: Mitchell Stipp
Its: Trustee

By: Christina Calderon Stipp
Name: Christina Stipp
Its: Trustee

ACKNOWLEDGEMENT AND WAIVER


The undersigned hereby (a) acknowledges and consents to the Transfer of the Interests in the Company, and (b) waives any marital rights or other property rights that the undersigned may have with respect to the ownership of the Interests in the Company.

Christina Calderon Stipp
Christina Calderon Stipp

ccs MS

EXHIBIT F
[SEE ATTACHED]

(F-1)

cas 

BILL OF SALE

THIS BILL OF SALE (this "Bill of Sale") is made this 20th day of February 2008 by Mitchell Stipp and Christina Stipp, as individuals and Trustees of the Stipp Family Trust dated October 13, 2004, ("Seller"), to Mitchell Stipp, as his sole and separate property ("Buyer").

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby sells, transfers, conveys and assigns to Buyer all of Seller's right, title and interest in and to all contents of the residence located at 2055 Alcova Ridge, Las Vegas, Nevada 89135 (the "Residence"), including, without limitation, all furniture, furnishings, appliances, fixtures, and equipment located in or used in connection with the Residence but expressly excluding Christina Calderon Stipp's clothing, jewelry and personal items and the clothing and personal items of Mia and Ethan Stipp.

This Bill of Sale has been executed by Seller in favor of Buyer and shall be effective on the date first above set forth.

Stipp Family Trust dated October 13, 2004

By: Mitchell Stipp
Name: Mitchell Stipp
Its: Trustee

By: Christina Calderon Stipp
Name: Christina Stipp
Its: Trustee

Mitchell Stipp
Mitchell Stipp

Christina Calderon Stipp
Christina Stipp

ACKNOWLEDGEMENT AND WAIVER

The undersigned hereby (a) acknowledges and consents to this Bill of Sale, and (b) waives any marital rights or other property rights that the undersigned may have with respect to the items that are subject to this Bill of Sale.

Christina Calderon Stipp
Christina Calderon Stipp

CCS MS

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Court's files and all papers,
2 records, proceedings, evidence, including exhibits, and any testimony transcripts be sealed
3 forthwith pursuant to NRS 125.110, and the same shall remain sealed until further order of this
4 Court.


5 DATED this 5th day of March, 2008.

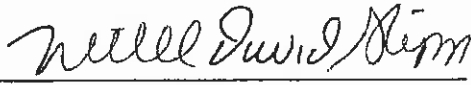
6
7 
8 DISTRICT JUDGE
9

10 The parties to this action, Petitioner CHRISTINA CALDERON STIPP and Petitioner
11 MITCHELL DAVID STIPP, hereby STIPULATE AND AGREE to the Court's entry of the
Decree of Divorce set forth above, and each party agrees to fully comply with the same.

12 DATED: February 25, 2008

DATED: February 25, 2008

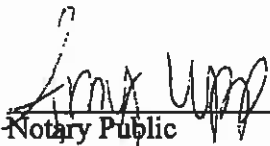
13
14 
15 CHRISTINA CALDERON STIPP
16 2055 Alcova Ridge Drive
17 Las Vegas, Nevada 89135
18 Petitioner in Proper Person


MITCHELL DAVID STIPP
2055 Alcova Ridge Drive
Las Vegas, Nevada 89135
Petitioner in Proper Person

19 STATE OF NEVADA)
20) SS:
21 COUNTY OF CLARK)

22 On this 25th day of February, 2008, before me, the undersigned Notary Public in and for
23 said County and State, personally appeared CHRISTINA CALDERON STIPP and MITCHELL
24 DAVID STIPP, both known to me to be the persons described in and who executed the foregoing
25 immediately above, each of whom acknowledged to me that he or she did so freely and voluntarily
26 and for the uses and purposes therein mentioned.

27 Witness my hand and official seal.

28 
Notary Public

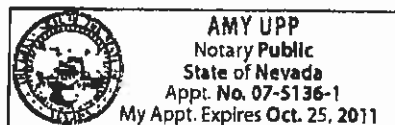


EXHIBIT “B”


CLERK OF THE COURT

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

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

10 CHRISTINA STIPP,

11 Plaintiff,

12 v.

13 MITCHELL STIPP,

14 Defendant.

CASE NO.: D-08-389203-Z
DEPT NO.: M

FAMILY DIVISION

17 **ORDER FROM HEARING ON PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE**
18 **AND DEFENDANT'S COUNTERMOTION**


19 DATE OF HEARING: October 6, 2010
20 TIME OF HEARING: 2:00 p.m.

21 This matter coming regularly on for hearing on Plaintiff's MOTION FOR ORDER TO SHOW
22 CAUSE WHY DEFENDANT SHOULD NOT BE HELD IN CONTEMPT FOR WILLFULL
23 VIOLATIONS OF COURT ORDERS; TO RESOLVE PARENT/CHILD ISSUES; FOR THE
24 APPOINTMENT OF A PARENTING COORDINATOR; FOR OTHER RELATED RELIEF AND
25 FOR ATTORNEY FEES, COSTS AND SANCTIONS and Defendant's COUNTERMOTION FOR
26 SOLE DECISION-MAKING AUTHORITY REGARDING HEALTHCARE DECISIONS
27 AFFECTING THE CHILDREN, FOR ATTORNEY'S FEES, COSTS AND SANCTIONS AGAINST
28

1 PLAINTIFF AND PATRICIA VACCARINO, ESQ.; Plaintiff CHRISTINA CALDERON-STIPP
2 ("Christina"), being present and represented by PATRICIA VACCARINO, ESQ., of VACCARINO
3 LAW OFFICE, and Defendant, MITCHELL STIPP ("Mitchell"), being present and represented by
4 RADFORD J. SMITH, ESQ., of RADFORD J. SMITH, CHARTERED; this Court, having reviewed the
5 pleadings on file, having heard the arguments of counsel, and being fully advised in the premises, and
6 good cause appearing, FINDS AND ORDERS AS FOLLOWS:

8 1. This case was reassigned from Judge Sullivan's department to the present Court upon
9 Judge Sullivan's transfer to the abuse and neglect cases in the Family Division of the Eighth Judicial
10 District Court. On May 6, 2010, Judge Sullivan held a hearing on then pending motions relating to the
11 care and custody of the parties' minor children. Christina has moved this Court to address areas that
12 remain under submission with Judge Sullivan as part of his consideration of the previous motions.
13 Consequently, this Court finds that such issues are not ripe for review.

15 2. Christina's motions for an order permitting her to obtain counseling for Ethan Stipp and
16 for an order restricting Mitchell from allowing the parties' children to have contact with their cousin,
17 Cody Stipp, are hereby denied.

19 3. Christina's motions for an order permitting Mia Stipp ("Mia") to be evaluated by Nevada
20 Child Find, for Mia to receive any services offered by Nevada Child Find, and for Nevada Child Find to
21 release Mia's records to Christina, are hereby ~~denied~~ *referred*. 

23 4. This Court hereby stays all other motions or requests for relief by the parties before the
24 Court until Judge Sullivan issues his written decision.

25 5. This Court hereby appoints Dr. Gary Lenkeit as a parenting coordinator (the "Parenting
26 Coordinator") for the specific purpose of facilitating mediation between the parties under the following
27 terms and conditions:
28

1 a. The appointment of the Parenting Coordinator is not made pursuant to NRC
2 53(a) because it is not this Court's intention to delegate its judicial authority to the Parenting
3 Coordinator to decide any of the disputes between the parties. Accordingly, the Parenting Coordinator
4 shall not have any decision-making authority to resolve any disputes between them.
5

6 b. The parties shall participate, in good faith, in a mediation process with the
7 Parenting Coordinator in an effort to resolve the disputes between them which are before this Court for
8 judicial determination. Should mediation result in an agreement, the parties shall enter into a stipulation
9 to be prepared by Mitchell's counsel and approved by Christina's counsel and submitted as an order to
10 be entered by this Court. In the event that the parties fail to reach an agreement on such issues of
11 dispute, the Parenting Coordinator shall communicate this fact to this Court and provide
12 recommendations, if any, for the method(s) that the Parenting Coordinator believes will assist the parties
13 with resolving such issues based on his experience during the mediation and the best interests of the
14 children. The Parenting Coordinator's written report shall be submitted to this Court and the parties
15 concurrently, no later than seven (7) days prior to the status check. The Parenting Coordinator's written
16 report is not confidential and may be presented to this Court by the parties or their counsel according to
17 the Nevada Rules of Civil Procedure and Evidence.
18
19

20 c. The Parenting Coordinator shall have the authority to determine the protocol for
21 the mediation except that this Court hereby sets the following procedural guidelines:
22

23 i. The parties shall not provide to the Parenting Coordinator any pleadings,
24 orders, the child custody evaluation prepared by Dr. John Paglini, or the transcripts of any hearings
25 (including audio/video and written transcripts) unless both parties stipulate in writing and this Court
26 orders their release.
27

28 ii. The parties shall not provide to the Parenting Coordinator any other
document unless requested by the Parenting Coordinator. Any document provided by a party to the

1 Parenting Coordinator shall be copied or provided to the other party, concurrently. "Document" is
2 defined to be synonymous in meaning and equal or exceeding in scope the usage of this term in NRCP
3 34(a).
4

5 iii. All written communications by the Parenting Coordinator to a party shall
6 be copied or provided to the other party, concurrently.

7 iv. The parties shall make themselves available for meetings and/or
8 appointments as deemed reasonably necessary by the Parenting Coordinator; provided, however, the
9 parties shall not meet with the Parenting Coordinator or provide the Parenting Coordinator any
10 documents until after this Order has been entered by this Court.
11

12 v. Hourly fees and costs for the services of the Parenting Coordinator shall
13 be determined by the Parenting Coordinator pursuant to a written agreement with the parties. Each of
14 the parties shall pay one-half (1/2) of the fees and costs of the Parenting Coordinator. All fees and costs
15 shall be paid in accordance with the written agreement with the Parenting Coordinator; provided,
16 however, that this Court reserves the right to re-allocate any of such payments between the parties.
17

18 6. The parties shall individually or together attend the Cooperative Parenting & Divorce
19 Seminar offered by UNLV or similar course offered by Dr. Jack Cathey and submit a letter of
20 completion to this Court on or before the status check.

21 7. This Court hereby defers the parties' conflicting requests for attorney's fees and sanctions
22 arising from the motions before this Court.
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1 8. This Court shall hold a status check regarding the status of the order of Judge Sullivan,
2 and the motions before this Court but not addressed herein on January 4, 2011 at 2:30 p.m.

3 IT IS SO ORDERED this 16th day of November, 2010

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DISTRICT COURT JUDGE

Submitted by:

RADFORD J. SMITH, CHARTERED

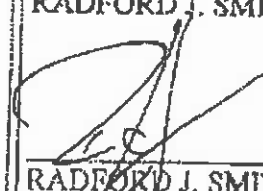

RADFORD J. SMITH, ESQ.
Nevada State Bar No. 002791
64 N. Pecos Road - Suite 700
Henderson, Nevada 89074
Attorneys for Defendant

EXHIBIT “C”

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

DATE OF HEARING: December 1, 2010
TIME OF HEARING: 2:00 p.m.

THIS matter having come before the Court upon Plaintiff's, CHRISTINA CALDERON STIPP ("CHRISTINA"); Motion for A New Trial, to Amend Findings and/or Stay of Order Filed on October 13, 2010, and allowing Plaintiff Immediate Access to Defendant's Tax Records As Previously Ordered, and to Compel Defendant to Cooperate in Commencing Sessions with the Parenting Coordinatory and For Attorney's Fees and Costs and upon Defendant's MITCHELL DAVID STIPP ("MITCH") Opposition and Countermotion fo an Award of Attorney's Fees and Costs and Sanctions; CHRISTINA appearing in person and through her attorney of record PATRICIA L. VACCARINO, ESQ. of the VACCARINO LAW OFFICE; MITCH appearing in person and through his attorney of record, RADFORD J. SMITH, ESQ.; upon the Court's inquiry, both counsel having confirmed that they have reviewed Judge Sullivan's orders from the May 6, 2010 and the June 22, 2010 hearings; the Court being fully apprized in the premise and good cause appearing;

- ☐ Disposition
 - ☐ Converted from Bankruptcy
 - ☐ Voluntary Business
 - ☐ Transferred
 - ☐ Voluntary Discharge
 - ☐ Discharge
 - ☐ Reorganization
- ☐ Hearing
- ☐ Denial
- ☐ Trial/Evidentiary Hearing
- ☐ Guardianship
- ☐ Death
- ☐ Age of Majority
- ☐ Restoration of Competency
- ☐ Order
 - Terminating Guardianship
 - Final Acct.

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1 Now therefor,

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Court reiterates its Order
3 that the Parenting Coordinator, Dr. Gary Lenkeit, has not been appointed as a Master. To clarify
4 the Court's Order from the October 6, 2010 hearing, if Dr. Lenkeit requests any pleadings and/or
5 reports from parties and counsel, his requests will be granted. Both counsel shall provide Dr.
6 Lenkeit with any requested information and documentation. The Court reserves jurisdiction to
7 address any objections any party may make to any documentation or information requested by
8 Dr. Lenkeit.

9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA's requests
10 for an award of attorney's fees from the October 6, 2010 hearing and today's hearing are denied.

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the previous attorney's
12 fees award in the amount of \$4,590.00, granted to MITCH by Judge Sullivan is reduced to
13 judgment. This judgment is collectable by all legal means if not paid in full within sixty (60) days
14 of Judge Sullivan's order.

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA's request for
16 healthcare for the minor child, MIA, is deferred. The parties are directed to attempt to resolve this
17 issue with the assistance of Dr. Lenkeit, the Parenting Coordinator. The Court will not entertain
18 another Motion on this issue until 90 days of the date of this hearing.

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the "no contact" request
20 for CODY is hereby denied.

21 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request for an order
22 for counseling for the minor child ETHAN is denied.

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request for a new trial
24 is denied.

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request to amend
26 findings is denied.

27 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the request for rescission,
28 reconsideration, modification and/or stay of order filed October 13, 2010 is denied.

1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA's request to
2 access MITCH's tax records as previously ordered is granted.

3 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** as for the tax records of the
4 Aquila, a business entity which is no longer in business, it appears that Judge Sullivan intended
5 that tax returns from the years 2007 and 2008 for this business to be reviewed by a tax expert.

6 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA, her chosen
7 expert and Ms. Vaccarino shall provide the expert's name to MITCH and Mr. Smith. The selected
8 expert, Ms. Vaccarino and CHRISTINA must also execute a Confidentiality Agreement.

9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA and her
10 counsel are granted the authorization to receive the ordered documents from Aquila through
11 discovery for only the years 2007 and 2008.

12 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHRISTINA's counsel can
13 file an Ex Parte Order to amend the order from the October 6, 2010 hearing if they believe there
14 are portions of the order that need correction.

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that if the Court finds the next
16 Motion filed by either party is not legally or factually warranted, the Court will sanction a party and
17 award attorney's fees.

18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the return date previously
19 scheduled for January 11, 2011 for status check on outsourced evaluation is vacated.
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1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED if problems arise, counsel are
2 directed to file a Motion.

3 Based upon the foregoing,

4 IT IS SO ORDERED this _____ day of JAN 29 2011 2010.

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6 
7 DISTRICT COURT JUDGE 

8 Respectfully submitted by:

9 VACCARINO LAW OFFICE


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11 
12 PATRICIA L. VACCARINO, ESQ.
13 Nevada Bar No. 005157
14 8861 W. Sahara Ave., Suite 210
15 Las Vegas, Nevada 89117
16 (702) 258-8007
17 Attorney for Plaintiff,
18 CHRISTINA CALDERON SMITH
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EXHIBIT “D”

**EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

CHRISTINA CALDERON STIPP

Plaintiff,

vs.

MITCHELL DAVID STIPP

Defendant.

CASE NO. D-08-389203-Z
DEPT. M

**ESTIMATED COST
OF TRANSCRIPT**

The office of Transcript Video Services received a request for transcript estimate, from Radford J. Smith, Chartered, on April 21, 2011, for the following proceeding in the above-captioned case:

APRIL 12, 2011

for original transcript and one copy.

The estimated cost of the transcript is \$140.00.

Payment in the amount of \$140.00, payable to **Verbatim Reporting and Transcription**, must be presented to the Clark County Family Court Transcript Video Services Office prior to work commencing on the transcript. Payment must be in the form of check or money order. We are unable to accept cash.

DATED this 21st day of April, 2011.


DARRYL THOMAS,
Transcript Video Services

Transcript ESTIMATE amount of \$_____ paid on
date of _____ Cash _____ Check # _____

This is only an estimate. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.

COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.