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1 **OPP**

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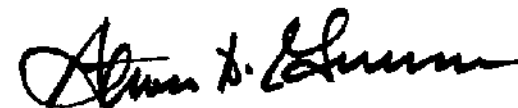
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CLERK OF THE COURT

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 **OPPOSITION TO MOTION FOR AN ORDER TO SHOW CAUSE TO ISSUE AND BE**  
26 **ENFORCED AGAINST DEFENDANT, TO COMPEL DEFENDANT'S COMPLIANCE WITH**  
27 **COURT ORDERS, TO REDUCE ARREARS DUE BY DEFENDANT TO JUDGMENT, TO**  
28 **REVIEW DEFENDANT'S CHILD SUPPORT OBLIGATION, FOR OTHER RELATED RELIEF**  
29 **AND FOR ATTORNEY FEES, COSTS AND SANCTIONS**  
30 **AND**  
31 **COUNTERMOTION FOR MEDIATION OF PARENTING ISSUES, A RESTRAINING ORDER**  
32 **TO PREVENT DISCLOSURE TO THIRD-PARTIES OF FINANCIAL DATA RELATED TO**  
33 **CHILD SUPPORT REVIEW, AND FOR AN AWARD OF ATTORNEY'S FEES, COSTS AND**  
34 **SANCTIONS**

DATE OF HEARING: September 25, 2012

TIME OF HEARING: 1:30 p.m.

COMES NOW, Defendant MITCHELL D. STIPP ("Mitchell"), by and through his co-counsel of record, Radford J. Smith, Esq., of the firm of Radford J. Smith, Chartered, hereby submits Mitchell's Opposition and Countermotion captioned above, to the motion filed by Plaintiff Christina Calderon Stipp ("Christina"), through her counsel, Patricia Vaccario, Esq., of Vaccarino Law Office.<sup>1</sup>

This filing is based upon the following points and authorities, the affidavit of Mitchell attached hereto as Exhibit A-1, all pleadings and papers on file in this action, and any oral argument made or evidence introduced at the time of the hearing. Specifically, Mitchell requests that this Court:

1. **DENY** Christina's motion in its entirety except that this Court shall review Mitchell's child support obligations based on the formula applicable to joint physical custody arrangements set forth in *Wright v. Osburn* and calculate the "obligation for support" in accordance with NRS 125B.070(1)(b)(2) without any deviations.
2. **GRANT** Mitchell's countermotion for a restraining order to prevent Christina from disclosing to third parties his Financial Disclosure Form and any financial information provided by Mitchell related to the review by the Court of Mitchell's child support obligations. This restraining order would not prohibit Christina from sharing such information with her attorneys and accountants for the purpose of determining the appropriate level of child support.
3. **GRANT** Mitchell's countermotion for mediation at the Family Mediation Center to resolve parenting issues and matters related to insurance premiums.
4. **GRANT** Mitchell's countermotion for attorney's fees, costs and sanctions against Christina.

**I.**

**STATEMENT OF FACTS**

The parties were divorced by Decree of this Court on March 6, 2008 (the "Decree"). The Decree granted the parties joint physical custody of their children, Mia, born October 19, 2004 (now age 7), and Ethan, born March 24, 2007 (now age 5). Christina unsuccessfully challenged that designation before

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<sup>1</sup> Because Ms. Vaccarino has raised an issue regarding the date of the filing of this response, Mitchell notes that a full copy of Christina's motion was not served upon undersigned counsel until August 24, 2012 via mail. The ten (10) business day period prescribed by EDCR 2.20 and NRCP 6 ended on September 10, 2012 due to intervening weekends and holidays. The three (3) days additional time added due to service by mail (NRCP 6) rendered the due date to be September 13, 2012.

1 this Court's predecessor, Judge Frank Sullivan, who confirmed the parties' status as joint physical  
2 custodians via Order entered on November 4, 2010.<sup>2</sup>

3  
4 The parties were last before this Court on September 14, 2011. That hearing was a culmination  
5 of a year of litigation brought by Christina in which she demanded that the parties' children (then ages  
6 five (5) and three (3)) be submitted to continued psychological testing and therapy. The Court appointed  
7 Dr. Louis Etcoff as the expert to address Christina's claims, and instead of Dr. Etcoff finding that Mia  
8 needed therapy (he found she did not), he recommended, in essence, that Christina seek therapy. The  
9 Court confirmed the findings of Dr. Etcoff at the September 14th hearing, and found that it was not  
10 medically necessary for Mia (or Ethan) to receive additional mental health treatment.  
11

12 It is worth noting that during time leading to the September 14th hearing, this Court repeatedly  
13 admonished the parties regarding the extent and nature of litigation in this case, and suggested more than  
14 once that it did not want to see future litigation over petty matters. Regardless of the admonishment of  
15 the Court, almost from the date of the September 14th hearing, Christina and her counsel have engaged  
16 in a campaign designed to lead back to litigation before this Court. Mitchell has tried to disengage from  
17 Christina's efforts by only addressing with her those matters that he felt relevant to the best interests of  
18 the children, but Christina has been relentless, a fact demonstrated her present motion consisting of over  
19 100 pages of text and exhibits.<sup>3</sup>  
20  
21

22 Christina's motion rehashes a series of issues that have previously been raised and addressed  
23 before Judge Sullivan on June 9, 2009 (notice for out-of-town travel and insurance premiums),  
24

25 <sup>2</sup> Christina's appeal, and Mitchell's cross appeal, of that order is pending before the Nevada Supreme Court. The fast tracking  
26 briefing process is complete. The Nevada Supreme Court has invited amicus curiae participation by the Family Law Section  
of the State Bar of Nevada ("FLS"). The FLS has until September 17, 2012 to file its brief.

27 <sup>3</sup> Christina's zeal for litigation even caused her to file in the Supreme Court (in response to a simple motion of the Amicus for  
28 a briefing extension) essentially the same affidavit that she submits with the present motion. She cannot stop herself from  
disparaging Mitchell to everyone that will listen, and complain about her perception that this Court has "failed to enforce  
valid orders." By Order dated August 29, 2012, the Nevada Supreme Court struck her pleading from the record of the  
appeal.

1 December 8, 2009 (telephonic communication) and May 6, 2010 (telephonic communication) and this  
2 Court, Judge Potter, on October 6, 2010 (insurance premiums and telephonic communication). Mitchell,  
3 in an effort to avoid readdressing these issues once again with the Court, would request that the Court  
4 direct the parties to mediation to attempt to resolve them. Mitchell has nevertheless briefly addressed  
5 each of those issues below.  
6

7 **A. Christina's True Motivation for her Request for Review of Child Support**

8 Under the Decree, Mitchell currently pays child support in the sum of \$1,000.00 per month per  
9 child. Christina ostensibly moves for an increase of \$80.00 in child support (\$40.00 per child) to the  
10 statutory cap amount of support under the formula in NRS 125B.070. It is plain that the request for such an  
11 increase could not justify Christina's long motion. In reality, Christina is seeking continuing investigation  
12 into Mitchell's finances to 1) to perform discovery into Mitchell's finances that was denied by this Court  
13 previously; and 2) disclose Mitchell's financial information to others. Specifically, in motions both before  
14 Judge Sullivan and Judge Potter, Christina claimed that Mitchell had failed to name assets during the  
15 divorce, and demanded the right to perform discovery to prove her case. She had no competent evidence to  
16 support that claim, and the law did not permit it. Christina nevertheless ploughed on with her claim. As  
17 more specifically discussed below, Judge Sullivan denied Christina's motions, and later Judge Potter denied  
18 Christina motion to rehear Judge Sullivan's order.  
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22 As shown below, there is evidence that suggests that Christina has provided confidential  
23 information from this file to lawyers representing creditors in the bankruptcy case of William Plisc, the  
24 principal of Mitchell's former employer. Christina's design is to claim, as she unsuccessfully and without  
25 basis has claimed here, that Mitchell has committed fraud. While Mitchell has filed his Financial  
26 Disclosure Form, that form, or the information contained in that form, should not be used by Christina as a  
27 weapon to forge ahead with bogus claims against him in actions that have nothing to do with this Court's  
28



1 calculation of child support. Mitchell requests a restraining order preventing the release of confidential  
2 material gained in the context of this action to others.

3  
4 **B. The Calculation of Support**

5 Mitchell and Christina are licensed Nevada lawyers. Christina has refused to return to work and is  
6 without a doubt underemployed. Mitchell, on the other hand, has gone back to work, albeit on a project that  
7 is coming to a close. Mitchell has been acting as an independent contractor for Field Law, Ltd. ("Field  
8 Law"), a Las Vegas, Nevada firm. Field Law has engaged Mitchell to perform work on a single mega-  
9 bankruptcy case. In that matter, Mitchell represents a class of creditors of a local homebuilder before the  
10 United States Bankruptcy Court for the District of Nevada. The term of Mitchell's engagement at Field  
11 Law will end upon completion of his work in that case. Attached hereto as Exhibit A-2 is a letter from Jon  
12 E. Field, Esq., confirming that fact.<sup>4</sup>

14 As shown below, Christina has not alleged any change of circumstances justifying a modification of  
15 support. Moreover, even if the Court were to proceed with a calculation without the requisite showing of a  
16 change of circumstances, based upon Mitchell's income, Christina's willful underemployment, and the  
17 parties' status as joint physical custodians, this Court should reduce Mitchell's present obligation of  
18 support.  
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23 <sup>4</sup> In that bankruptcy case, there is a hearing on confirmation of debtor's plan of reorganization scheduled on September 25, 2012,  
24 which is the same date as the hearing scheduled on Christina's motion. Mitchell's work commitment this month has made it  
25 impossible for him to respond completely to Christina's motion by September 13, 2012, and he may not be able to attend the  
26 hearing in the present motion. For these reasons, Mitchell asked Christina to stipulate to reschedule the hearing and extend the  
27 due dates for filing his response and Financial Disclosure Form, to attend mediation at the Family Mediation Center, and to  
28 agree to keep confidential their respective Financial Disclosure Forms and any information exchanged by the parties related to  
the Court's review of Mitchell's child support obligations. See Letter from Radford Smith to Patricia Vaccarino dated August  
31, 2012 attached hereto as Exhibit B. Unfortunately, Christina refused to re-schedule the hearing date, mediate any issues at  
the Family Mediation Center, and agree to keep Mitchell's financial information confidential. See Letter from Patricia  
Vaccarino to Mitchell Stipp and Radford Smith dated September 5, 2012 attached hereto as Exhibit C.

II.

ARGUMENT

A. Review and Modification of Child Support

1. *A change in circumstance is required to modify child support.*

Christina's motion seeks a review of Mitchell's child support obligations. At the time the parties divorced on March 6, 2008, Mitchell agreed to pay \$1,000.00 per child, which amount exceeded the presumptive maximum amount per child pursuant to NRS 125B.070(2). Currently, the presumptive maximum amount per child is \$1,040.00. Apparently, Christina would like to have Mitchell's child support obligations increased by at least \$80.00 per month. Prior to the filing of Christina's motion, Christina never communicated to Mitchell that she wanted him to pay more than \$1,000.00 per child.

The Nevada Supreme Court in *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213, 228 (2009) clarified that the district court only has authority to modify a child support order upon finding there has been a change in circumstances since the entry of the order and the modification is in the best interests of the children. The Nevada Supreme Court specifically provided:

Under NRS 125B.145(1), the district court must review the support order if three years have passed since its entry. The district court must then consider the best interests of the child and determine whether it is appropriate to modify the order. NRS 125B.145(2)(b). Modification is appropriate if there has been a factual or legal change in circumstances since the district court entered the support order. Upon a finding of such a change, the district court can then modify the order consistent with NRS 125B.070 and 125B.080. *Id.* Therefore, although a party need not show changed circumstances for the district court to review a support order after three years, changed circumstances are still required for the district court to modify the order.

*Id.* at 229.

Christina has not alleged in her motion that any change in circumstance has occurred. Presumably, with respect to the change in circumstance, Christina is relying on the fact that Mitchell

1 recently accepted a temporary project to work on a bankruptcy case at Field Law. However, Christina does  
2 not specify how this “change” warrants an increase in Mitchell’s child support obligations.

3  
4 **2. Calculation of child support must be based on joint physical custody.**

5 The parties have joint physical custody of the children. Christina incorrectly argues in her motion  
6 that this Court should calculate child support on the presumption that Christina has primary physical  
7 custody of the children. Christina’s position is frivolous. The parties’ marital property settlement  
8 agreement (the “MSA”), which was incorporated into the Decree, provides that the parties have joint  
9 physical custody of their children, the subsequent stipulation to which the parties agreed and was entered  
10 by Judge Sullivan on August 7, 2009 (“SAO”), which provided Mitchell additional time did not change  
11 the custody status of the parties, and Judge Sullivan confirmed the same in his order entered on  
12 November 4, 2010. No court (including the Nevada Supreme Court) has ruled that the parties are  
13 anything other than joint physical custodians.  
14

15  
16 The holding in *Rivero* confirmed that in cases where the parties have joint physical custody, the  
17 *Wright v. Osburn* formula, shall determine which party should receive child support. 216 P.3d at 231-32  
18 (citing 114 Nev. 1367, 1368-69, 970 P.2d 1071, 1072 (1998)). The Nevada Supreme Court explained:

19 [U]nder *Wright*, child support in joint physical custody arrangements is  
20 calculated based on the parents' gross incomes. *Id.* at 1368-69, 970 P.2d at  
21 1072. Each parent is obligated to pay a percentage of their income,  
22 according to the number of children, as determined by NRS  
23 125B.070(1)(b). The difference between the two support amounts is  
24 calculated, and the higher-income parent is obligated to pay the lower-  
income parent the difference. *Id.* The district court may adjust the  
resulting amount of child support using the NRS 125B.080(9) factors. *Id.*

25 *Id.* at 232.

26 The *Rivero* decision also made it clear that the *Wright* formula remains unchanged by the new  
27 definition of joint physical custody set forth in its opinion even if there is a disparity in the timeshare  
28

1 like in this case. *Id.* As set forth in Judge Sullivan's order entered on November 4, 2010, Christina has  
2 sixty percent (60%) and Mitchell has forty percent (40%) of the physical timeshare with their children.

3  
4 **3. *Christina is willfully underemployed.***

5 As discussed below, Christina's Financial Disclosure Form ("Christina's FDF")<sup>5</sup> reports nominal  
6 income from investments and rental properties, and no income from employment. Christina disclosed  
7 on page 1 of Christina's FDF that her occupation is a "stay-at-home caretaker" who was last employed  
8 in her own practice, Stipp Law Group, in 2008. As such, Christina is willfully underemployed.

9 Christina is an attorney who is licensed to practice law in the State of Nevada. She graduated  
10 from Georgetown Law School in 2000. Prior to forming Stipp Law Group, Christina was a litigation  
11 associate at Morris Pickering (which is now known as Morris Law Group). Christina offers no  
12 explanation in her motion why she cannot seek and obtain a job as an attorney.

13  
14 "If a parent who has an obligation for support is willfully underemployed or unemployed to  
15 avoid an obligation for support of a child, that obligation must be based upon the parent's true potential  
16 earning capacity." NRS 125B.080(8). In *Minnear v. Minnear*, 107 Nev. 495, 814 P.2d 85 (1991), the  
17 court held that where there is a preponderance of evidence demonstrating that a party is willfully  
18 underemployed, a presumption arises that shifts the burden to the underemployed party to prove that the  
19 willful underemployment is for reasons other than the avoidance of child support obligation. 107 Nev.  
20 at 498, 814 P.2d at 86-87. Here, the Court must presume that Christina's obvious underemployment  
21 (she claims a total income of \$608.00 on Christina's FDF), is due to her desire to avoid the correct  
22 computation of child support under statutory formula (as interpreted in *Wright v. Osburn*, supra).  
23 Consequently, when calculating the parties' relative obligations of support, the Court should utilize  
24 Christina's "true potential earning capacity" as the basis for Christina's relative obligation.  
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<sup>5</sup> EDCR 5.32(a) requires that Christina's FDF accompany her motion. Christina's motion was filed on August 20, 2012, and Christina's FDF was filed nine (9) days later on August 29, 2012.

1 As an attorney who has at least eight (8) years of prior legal experience (which only includes  
2 experience prior to leaving the work force in 2008), Mitchell believes Christina is still capable of  
3 earning at least \$75,000.00 to \$100,000 per year. Christina, like other single mothers with school age  
4 children, has ample time to work. She, however, does not want to do so because she believes it will  
5 disadvantage her child custody action, and she seeks to avoid a calculation of support whereby she  
6 receives less.

8 Christina's FDF reveals that she will soon need to return to full time work. Christina reports on  
9 Christina's FDF that she has \$137,716.00 in cash in bank accounts. See Christina's FDF at pg. 5 (Lines  
10 1-2). She also reports total monthly personal expenses of \$18,507.00. *Id.* at pg. 3 (line 24). The  
11 income she reports from investments and rental properties (\$608.00), plus Mitchell's current child  
12 support of \$2,000.00 per month, less her total monthly personal expenses, leaves Christina with a net  
13 monthly loss of \$15,899.00. *Id.* at pg. 4. At this "burn rate," Christina will be out of money in less than  
14 nine (9) months. As part of the division of the marital estate at the time the parties divorced in 2008,  
15 Christina received \$1,826,000.00 in cash plus the rental property "free and clear" located at 1005  
16 Hickory Park (now apparently only worth \$175,000.00 according to Christina's FDF). Assuming that  
17 Christina's FDF is accurate, Christina appears to be seeking more money in child support from Mitchell  
18 to cover her personal monthly expenses rather than working (which she is capable of doing). Faced with  
19 the prospect of running out of money (or being forced to liquidate her rental properties for cash in an  
20 otherwise "down" real estate market), Christina still elects not to work because if she did she likely  
21 would not receive the \$2,000.00 per month that Mitchell has been providing to Christina for the support  
22 of the children for the last four (4) years. From Christina's perspective, it makes better financial sense to  
23 accept \$2,000.00 per month in child support, which is tax-free money for federal income tax purposes,  
24 than work.

1 Mitchell is working and earning money to pay his bills and support his children. He is doing so  
2 even though Christina has threatened to take time from him with the children pursuant to the right of  
3 first refusal provided to the parties in the SAO. See Letter from Patricia Vaccarino to Mitchell Stipp and  
4 Radford Smith dated September 5, 2012, page 2, attached hereto as Exhibit C ("If Mitch has 'limited  
5 available time' this and next month, we would request that Mitchel provide his full work schedule and  
6 tax meeting schedule to Christina as soon as possible so she may exercise a right of first refusal to care  
7 for the children in Mitch's absence and time of unavailability."). Fortunately for Mitchell, his work  
8 schedule does not interfere with his ability to care for his children during his timeshare.  
9  
10

11 As shown above, Christina's refusal to return to work in her field is tactical. She cannot  
12 overcome the presumption that she is willfully underemployed, and the Court should base the parties'  
13 relative child support obligations upon a calculation of her true income capacity.  
14

15 **4. Christina may be underreporting her "gross monthly income" for purposes of**  
16 **determining her obligation for support.**

17 NRS 125B.070(b)(2) defines the "obligation of support" due for the parties' children as twenty-  
18 five percent (25%) of a party's gross monthly income as defined by NRS 125B070(1)(a) (but not more  
19 than the presumptive maximum amount which is \$1,040.00 per child). The determination of the  
20 obligation of support is based most often on the submission of the Financial Disclosure Forms required  
21 by EDCR 5.32.  
22

23 As referenced above, Christina reports on Christina's FDF that her total gross monthly income is  
24 \$608.00 per month, and that the source of that income is "investment income and rental income". See  
25 Christina's FDF pg. 2 (lines 13-14). Christina does not disclose the source of the investment income on  
26 her Asset and Debt Schedule in the FDF, or anywhere else on the form. See Christina's FDF pg. 5 (lines  
27 5-8 are blank). The source of Christina's rental income appears to be from the two (2) rental properties  
28 owned by "CME Properties, Series 1 and 2, LLC," which Christina owns through her separate property



1 trust. See Christina's FDF pg. 5-6 (lines 14-15). Christina, however, has failed to complete the  
2 Business Income/Expense Schedule for her rental property business. See Christina's FDF pg. 9.

3 Generally, cash or the fair market value of property that Christina receives from the rental  
4 properties (i.e., rent) is income from which Christina is permitted to deduct "legitimate business  
5 expenses" for purposes of determining "gross monthly income" pursuant to NRS 125B.070(1)(a). Since  
6 Christina elected not to complete the Business Income/Expense Schedule for her rental property  
7 business, this Court cannot determine whether the amount of rental income reported on Line 14 of page  
8 2 of Christina's FDF is accurate. Furthermore, Christina fails to disclose the amount of depreciation  
9 claimed in computing the rental income. See Christina's FDF pg. 2 (line 14). "Legitimate business  
10 expenses" do not include amounts allowable by the IRS for depreciation of a rental property. When  
11 calculating income for federal tax purposes, an annual deduction for the portion of the cost of rental  
12 property is permitted. "Taxable income," however, is not the same as "gross monthly income" under  
13 NRS 125B.070(1)(a). Depreciation is a non-cash deduction (i.e., it is a "paper" expense and does not  
14 require an actual cash expenditure) and therefore should not be deducted from income. Accordingly,  
15 Mitchell believes that over and above her willful underemployment, Christina may be underreporting  
16 her gross monthly income for purposes of determining her obligation of support. Since Christina's FDF  
17 is incomplete (and untimely---See Footnote 5 above), under EDCR 5.32(a), this Court may construe it as  
18 an admission that Christina's motion is not meritorious and as cause for its denial, and this Court may  
19 award Mitchell his attorney's fees and impose sanctions.

20  
21  
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23  
24 **5. Christina fails in her motion to set forth any facts which would justify any deviation**  
25 **from the calculation in Wright and formula in NRS 125B.070(1)(b)(2) in accordance**  
26 **with the factors set forth in NRS 125B.080(9).**

27 The focus of the statutory formula for child support is meeting the needs of the children. Indeed,  
28 NRS 125B.080(5) reads

1 It is presumed that the basic needs of a child are met by the formulas set forth in NRS  
2 125B.070. This presumption may be rebutted by evidence proving that the needs of a  
3 particular child are not met by the applicable formula.

4 In *Fernandez v. Fernandez*, 126 Nev. Adv. Rep. 3, 222 P.3d 1031, 1039 (2010), the Court held  
5 "if changed circumstances merit modification, revising the award to conform to the formula guidelines  
6 presumptively meets the child's needs." Here, Christina has provided no evidence to overcome that  
7 presumption. The parties' children have no special economic needs whatsoever. Christina has provided  
8 no evidence upon which the Court could make the required written findings mandated by NRS  
9 125B.080(9). The reason for this is that there is no basis for any deviation from the application of the  
10 statutory formula in this case.  
11

12  
13 **B. This Court should Enter its Order Restraining Christina from Disclosing to Third  
14 Parties any Financial Information Produced or Filed in this Case.**

15 Both parties have an inherent privacy right to the financial information contained on their  
16 Financial Disclosure Forms and any information exchanged by the parties related to the review by the  
17 Court of the parties' relative child support obligations. As discussed above, Christina's motivation for  
18 seeking a review of his child support obligations has little to do with increasing Mitchell's support  
19 obligation. Since Christina's motion offers no evidence justifying any deviation from the formula as set  
20 forth in NRS 125B.070(1)(b)(2), she cannot with a straight face argue that the possible \$80.00 total  
21 increase is the real reason she has filed her bloated motion. What the evidence suggests is that Christina  
22 has two (2) true underlying intentions – to revive stale claims, and to bring harm to Mitchell.  
23

24 Part of Christina's true intent in filing her motion is to obtain financial information on Mitchell's  
25 "assets" to revive her "omitted asset" claims already denied by Judge Sullivan at the hearings on  
26 February 3, 2010 and June 22, 2010, and by this Court on December 1, 2010. Indeed, as part of her  
27 present motion, she asks this Court to reconsider the issue of Christina's access to the tax returns of  
28

1 Aquila Investments, LLC, which this Court already addressed at the hearing on December 1, 2010, and  
2 Judge Sullivan had addressed before that.

3 The other factor motivating Christina to file her motion seeking financial review is to harm  
4 Mitchell. It appears that it is Christina's intent to provide Mitchell's financial condition to creditors  
5 suing William W. Plise, the principal of Mitchell's former employer. Mr. Plise was a local real estate  
6 developer whose businesses failed as a result of the credit crisis beginning in 2008. Mitchell (and  
7 Christina through Stipp Law Group) previously worked for Mr. Plise's real estate companies during the  
8 term of the parties' marriage. Prior to filing for Chapter 7 bankruptcy in April of 2012, Mr. Plise was  
9 the subject of several lawsuits to collect on his personal guarantees he made of real estate loans secured  
10 by local projects. Christina appears to want to gather Mitchell's financial information and provide it to  
11 Mr. Plise's creditors to bolster false claims of collusion between Mitchell and Mr. Plise.

12 The evidence of Christina's intent is found in the mysterious and anonymous provision of  
13 information from this case to Mr. Plise's creditors. Specifically, prior to Mr. Plise's bankruptcy filing,  
14 at a judgment debtor examination conducted by one of Mr. Plise's creditors, Mr. Plise was presented  
15 with and asked about an affidavit that he provided for Mitchell in this case. The affidavit concerned the  
16 amount of money Mitchell received while working for Mr. Plise's companies. As this Court is aware,  
17 this case is sealed pursuant to NRS 125.110, so the creditors would have no access to anything but the  
18 orders and pleadings in this matter. Indeed, the attorney representing one of Mr. Plise's creditors  
19 informed Mr. Plise and his counsel that Mr. Plise's affidavit in this case was "dropped off at [his]  
20 office[,]" and he did not know who delivered it. Neither Mr. Plise nor Mitchell provided Mr. Plise's  
21 affidavit in this case to Mr. Plise's creditor. Under these circumstances, it is reasonable to assume that  
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1 Christina or her counsel disclosed this affidavit. Attached as Exhibit D is a letter from Lance Johns,  
2 Esq., who represented Mr. Plise, which confirms these facts as described above.<sup>6</sup>

3 Mitchell's counsel has attempted to address the matter of confidentiality with respect to these  
4 financial matters directly with Ms. Vaccarino. See Letter from Radford Smith to Patricia Vaccarino  
5 dated August 31, 2012 attached hereto as Exhibit B. Not only has Christina's counsel, Ms. Vaccarino,  
6 refused to consider Mitchell's reasonable request, she has impliedly threatened to disclose Mitchell's  
7 private financial data to the bankruptcy trustee appointed in Mr. Plise's bankruptcy, the Review Journal,  
8 and creditors of Mr. Plise and other parties who are investigating Mr. Plise's assets in connection with  
9 his bankruptcy. See Letter from Patricia Vaccarino to Mitchell Stipp and Radford Smith dated  
10 September 5, 2012, page 3, attached hereto as Exhibit C ("Certainly, if the Bankruptcy Trustee, the  
11 Review Journal, creditors or investigators are seeking evidence of the truth, you cannot expect Christina  
12 and me to subject that 'truth' to confidentiality and/or a gag-order.").

13 Contrary to Ms. Vaccarino's threats, this Court has the inherent power to enter orders associated  
14 with the information contained in its case files. In *Johanson v. Eighth Judicial District Court*, 124 Nev.  
15 245, 182 P3d 84 (2008), the Nevada Supreme Court held that a poorly defined blanket gag order preventing  
16 discussion of a divorce action by the parties was unconstitutionally vague and overbroad. In its analysis in  
17 *Johanson*, however, the court recognized that "gag" orders may be issued when (1) the activity poses a  
18 clear and present danger or a serious and imminent threat to a protected competing interest, (2) the order  
19 is narrowly drawn, and (3) no less restrictive means are available. *Johanson*, 124 Nev. at 247, 132 P.3d  
20 at 96. The *Johanson* court further recognized a Court's inherent power to protect its orders and files,  
21 citing with approval *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598-99, 98 S. Ct. 1306, 55  
22 L. Ed. 2d 570 (1978) (noting that "[e]very court has supervisory power over its own records and files,"  
23  
24  
25  
26  
27

28 <sup>6</sup> The transcript for Mr. Plise's judgment debtor examination referenced in Mr. John's letter was not included in this Exhibit D due to its size.

1 and the decision to allow access to court records is best left to the sound discretion of the trial court);  
2 *Whitney v. Whitney*, 164 Cal. App. 2d 577, 330 P.2d 947, 951 (Cal. Ct. App. 1958) (providing that  
3 alimony proceeding can be closed for the welfare of a child); *State v. Grimes*, 29 Nev. 50, 81, 84 P.  
4 1061, 1071 (1906) (stating that there are stronger reasons to deny public access to judicial records  
5 concerning private matters when public access "could only serve to satiate a thirst for scandal"); *Katz v.*  
6 *Katz*, 356 Pa. Super. 461, 514 A.2d 1374, 1379 (Pa. Super. Ct. 1986) (recognizing that "no legitimate  
7 purpose can be served by broadcasting the intimate details of a soured marital relationship," however,  
8 good cause must be shown before a proceeding can be closed). *Johanson*, 124 Nev. at 250, 132 P.3d at  
9 98.  
10  
11

12 Applying these principles to the present case, the Court should find that a "gag" order preventing  
13 disclosure of Mitchell's (or the parties') confidential information to anyone unnecessary to the  
14 determination of the parties' relative child support obligation. First, the activity of Christina providing  
15 Mitchell's confidential financial information to the community poses an imminent threat to Mitchell's  
16 protected competing interest, his right to privacy from disclosure to the public of such information.  
17 Christine's position that she can publish such information to whomever she pleases, if taken to its  
18 logical end, would mean that everyone who is ever involved in a child support proceeding would  
19 thereby waive any right to privacy of even his or her most confidential financial information. Scorned  
20 spouses, like Christina, would be free to publish such information to whomever they please, including  
21 business competitors, lawyers in adversary lawsuits, and financial institutions. The potential for damage  
22 and violation of Mitchell's right of privacy justifies the imposition of the gag order under the first  
23 criteria recognized in *Johanson*.  
24  
25  
26  
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28

1 Second, the order here could be narrowly drawn so that it did not affect Christina's right to seek  
2 a review of child support. Indeed, Mitchell is not requesting a limit on the use of such information in  
3 these proceedings, only limits regarding the use of the information outside of the suit.

4  
5 Third, there is no less restrictive means available. Either the information is published to third  
6 parties or it is not. A simple restraining or gag order that does not affect Christina's right to prosecute  
7 her claim for a review of child support is not actually restrictive at all to her only legitimate use of the  
8 financial information.

9  
10 Based upon the foregoing, Mitchell requests that the Court enter its order prohibiting the  
11 dissemination of the parties' financial information to anyone other than lawyers, experts or consultants  
12 involved in this case.

13 **C. Tax Returns for Aquila Investments, LLC**

14  
15 The district court has already addressed the issue of disclosure of the tax returns of Aquila  
16 Investments, LLC (the "Aquila Tax Returns") at hearings before Judge Sullivan on February 3, 2010  
17 and June 22, 2010 and this Court on December 1, 2010. Again, for the record, the Aquila Tax Returns  
18 are not Mitchell's returns. Judge Sullivan made it clear in his orders that the Aquila Tax Returns may  
19 only be released to Christina's counsel and/or accounting expert pursuant to a confidentiality agreement.  
20 See Judge Sullivan's Orders attached hereto as Exhibit E. Mitchell has also offered to provide them to  
21 Christina as an accommodation. However, neither Ms. Vaccarino nor Christina has signed the  
22 confidentiality agreement provided them. Christina has also not provided Mitchell or his counsel the  
23 name of her accounting expert she has engaged to review the Aquila Tax Returns, and this person has  
24 not signed the confidentiality agreement.

25  
26 Mitchell desired to end the issue of Christina's false claims in 2009 that he received distributions  
27 from Aquila Investments, LLC that were omitted from division of the marital estate upon the parties'  
28



1 divorce in March of 2008. Mitchell asked the company's former principal, Mr. Plise, for authorization  
2 to present the company's tax returns to Judge Sullivan. Mr. Plise required that Mitchell sign a  
3 confidentiality agreement, and upon doing so, on December 18, 2009, Mitchell voluntarily submitted the  
4 2007 and 2008 Aquila Tax Returns for *in camera* review by Judge Sullivan. Christina asks in her  
5 motion for Mitchell to confirm the location of the copies of the Aquila Tax Returns. Presumably, Judge  
6 Sullivan has retained the Aquila Tax Returns Mitchell submitted, and they are available for review in his  
7 chambers (subject, of course, to a confidentiality agreement).  
8

9  
10 **D. Parenting and Insurance Premium Matters**

11 Mitchell has asked this Court to refer the parties to mediation at the Family Mediation Center on  
12 the parenting issues and matters related to insurance premiums discussed in this Section. The district  
13 court has already addressed these matters at hearings before Judge Sullivan on June 9, 2009 (notice for  
14 out-of-town travel and insurance premiums), December 8, 2009 (telephonic communication) and May 6,  
15 2010 (telephonic communication) and this Court on October 6, 2010 (insurance premiums and  
16 telephonic communication).  
17

18 **1. *Notice of Out of State Travel***

19 Christina's motion asks for an order to show cause to issue and be enforced against Mitchell  
20 regarding alleged failures by Mitchell to provide adequate notice of out of state travel with the children.  
21 Ms. Vaccarino prepared and submitted an order to this Court from a hearing before Judge Sullivan on  
22 June 4, 2009 and for some reason this Court entered it on or about January 19, 2012 (almost three (3)  
23 years after the hearing). *See* Order attached hereto as Exhibit F. At the hearing, Judge Sullivan made  
24 an off-the-cuff remark that the parties should give each other fifteen (15) days' notice of out of state  
25 travel, and that remark appeared in the minutes. *See* Minutes attached hereto as Exhibit G. Judge  
26 Sullivan never intended this remark to be a "court order" because he expressly provided that no order  
27  
28

1 would be required as the clerk's minutes would be sufficient record of the proceedings and referred the  
2 parties to mediation at the Family Mediation Center. The Nevada Supreme Court in *State, Div. Child &*  
3 *Fam. Servs v. Dist. Ct.*, 120 Nev. 445, 451, 92 P.3d 1239, 1239 (2004) (quoting *Rust v. Clark Cty.*  
4 *School Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987) (emphasis in original)), held the following:

6 "Entry" involves the filing of a signed written order with the court clerk.  
7 Before the court reduces its decision to writing, signs it, and files it with  
8 the clerk, the nature of the judicial decision is impermanent. The court  
9 remains free to reconsider the decision and issue a different written  
10 judgment. Consequently, a "[c]ourt's oral pronouncement from the bench,  
11 the clerk's minute order, and even an unfiled written order are ineffective  
12 for any purpose."

13 We hold that dispositional court orders that are not administrative in  
14 nature, but deal with the procedural posture or merits of the underlying  
15 controversy, must be written, signed, and filed before they become  
16 effective.

17 As this Court may not have been aware at the time it entered an order from Judge Sullivan's  
18 hearing, the parties subsequently agreed to a stipulation during mediation, which was later entered by  
19 Judge Sullivan as an actual order, and it does not contain any obligation to provide fifteen (15) days'  
20 notice for out of state travel. See SAO attached hereto as Exhibit H. If Judge Sullivan wanted the  
21 parties to be bound by a requirement to provide such notice, he would have entered an order including  
22 such requirement and certainly would not have referred the parties to mediation to resolve this issue (and  
23 other matters before him). Furthermore, if the parties desired to be bound by such a requirement, they  
24 would have included it in the stipulation prepared by the parties during the mediation.

25 Mitchell has provided adequate notice of out of state travel with the children after the hearing on  
26 June 4, 2009 and entry of the order by this Court on January 19, 2012. See Emails from Mitchell Stipp  
27 to Christina Calderon Stipp attached hereto as Exhibit I. Christina's allegations in her motion that  
28 Mitchell has violated any order of the court are simply false. While Mitchell understands that it may be

1 “common courtesy” for one party to provide the other party notice of out of state travel with the  
2 children, fifteen (15) days’ notice can be unduly burdensome and fails to serve the best interests of the  
3 children. For example, if Mitchell decides he wants to take the children to California over the weekend  
4 to go to Disneyland, the beach, or camping, he cannot do so unless he notifies Christina fifteen (15)  
5 days’ in advance or secures a waiver of enforcement of this requirement from Christina. Attached as  
6 Exhibit J is an email exchange between Mitchell and Christina during May of 2011. In this email,  
7 Christina asks Mitchell to change his timeshare with the children to accommodate a family function.  
8 Mitchell agrees, provided, that Christina allows Mitchell to take the children to Disneyland with less  
9 than fifteen (15) days’ notice. Christina agrees; however, she subsequently learns that Mitchell has also  
10 invited the children’s cousins on the trip to Disneyland, and she revokes her consent because Christina  
11 does not want Ethan to be around his cousin, Cody.  
12

13  
14 Mitchell believes that Christina instructed Ms. Vaccarino to prepare an order based on a hearing  
15 before Judge Sullivan and submit it to this Court for entry solely for the purpose of harassing Mitchell  
16 with threats of contempt and controlling his timeshare with the children. Whether the parties provide  
17 fifteen (15), ten (10), or five (5) days’ notice, it is immaterial to the best interests of the children, which  
18 should be the only focus of any order by the district court. Christina is more interested in creating  
19 orders that she can attempt to enforce against Mitchell rather than allowing the children to enjoy travel  
20 experiences with Mitchell (even if they arise on less than fifteen (15) days’ notice).  
21

## 23 2. *Out of State Travel Itinerary*

24 Article I, Section 1.1(c) of the parties’ MSA requires the parties to provide a “travel itinerary  
25 (including trip dates, planned destination by address, and an estimated date and time of arrival back[.]”  
26 when traveling with the children. Neither party has provided the kind of detailed travel itinerary  
27 required by this section of the MSA. However, similar to Christina, Mitchell has provided travel  
28

1 itineraries that include the trip destination and places where the children would be staying. See Emails  
2 from Mitchell to Christina attached hereto as Exhibit I. Although Mitchell has complied with this  
3 requirement of the MSA, Christina only wants more detailed information (which she does not even  
4 provide Mitchell herself) so she can continue to harass Mitchell and his wife Amy and interfere with his  
5 timeshare with the children. For example, after providing previous notices to Christina, Mitchell's hotel  
6 reservations have been inexplicably cancelled or changed, and often times on these trips, Mitchell and  
7 Amy receive multiple telephone calls daily in the hotel rooms, which are immediately disconnected  
8 when answered by Mitchell or Amy.  
9

10  
11 **3. Telephonic Communication**

12 Christina's motion asks for an order to show cause to issue and be enforced against Mitchell  
13 regarding alleged failures by Mitchell to facilitate daily telephonic communication between the children  
14 and Christina during Mitchell's timeshare. This matter has been addressed by the parties in pleadings  
15 and papers before the district court at hearings before Judge Sullivan on December 8, 2009 and May 6,  
16 2010 and this Court on October 6, 2010. The fact is that neither party facilitates daily telephone  
17 communication with the other party. If the children ask to call Christina, Mitchell always facilitates  
18 these requests. However, Mitchell does not receive daily telephone calls from the children and has  
19 never received a call from the children while they were on vacation with Christina.  
20  
21

22 Mitchell explained in great detail to Judge Sullivan in his October 29, 2009 filing (pages 17-19)  
23 the reasons for his inability to comply with this agreement when he wrote the following:

24 Mitchell has provided in Subsection (d) below an email in which Christina  
25 simply "goes off" on Mitchell after he had sent her a reply email regarding  
26 the children's telephone communication. Specifically, the SAO requires  
27 the custodial parent to facilitate daily telephonic communication between  
28 the non-custodial parent and the children by placing at least one (1)  
telephone call per day. Neither party has complied with the terms of this  
provision. While seemingly a good idea, the presence of this provision in  
the SAO has granted Christina continued opportunities to harass Mitchell

1 and his wife Amy in front of Mia. Indeed, within weeks of reaching that  
2 agreement, Christina began to create conflict by refusing to permit the  
3 children to speak to his wife Amy (who happens to be the children's  
4 stepmother) on the telephone and disconnecting the calls if Amy spoke to  
the children during Mitchell's calls (even if the children asked to speak to  
her).

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

15 The issue of forcing the children to call the non-custodial parent  
became overly burdensome given Christina's bad intentions and  
16 gamesmanship. Mitchell ultimately reasoned that neither party should  
17 force the children to call the other parent, but that each should facilitate  
specific requests by the children to speak to the other. On each occasion  
18 when the children have asked to call Christina, Mitchell placed the call,  
and Mitchell has taught Mia how to use the phone and Christina's  
19 telephone number. If the children do not connect with Christina, he tries  
her again and always answers Christina's return telephone calls.  
20 Christina, on the other hand, does not place calls to Mitchell for the  
children any longer, and Mitchell has only spoken to the children once on  
21 the phone in several weeks (which did not even include Mia's birthday on  
22 October 19, 2009).

23 Mitchell attempted to communicate his position to Christina via  
24 email. The emails started cordially, but Christina erupted almost  
25 immediately when Mitchell requested that she refrain from making  
inappropriate comments to the children. The tone of Christina's emails  
26 (quoted below) are a perfect representation of why she cannot facilitate,  
and refuses to permit, frequent associations between Mitchell and the  
27 children.  
28

1 Judge Sullivan never addressed the matter of daily telephonic communication in his order.  
2 Therefore, Christina's request for relief was denied. *Cf. Bd. of Gallery of History v. Datecs Corp.*, 116  
3 Nev. 286, 289, 994 P.2d 1149, 1150 (2000) (noting that the district court's failure to rule on a request  
4 constitutes a denial of the request). However, this did not stop Christina from seeking to punish  
5 Mitchell. Christina filed a motion for an order to show cause, which was heard by this Court on October  
6 6, 2010, in which she again complained that Mitchell failed to facilitate daily telephonic communication  
7 with the children. Mitchell again addressed the matter in his September 23, 2010 filing (page 42). This  
8 Court ultimately denied Christina's motion.  
9  
10

11 **4. Location of Timeshare Exchanges**

12 Christina's motion asks this Court to consider her request to have timeshare exchanges occur at  
13 each of the parties' respective residences by the party receiving custody utilizing the "honk-and-seatbelt  
14 rule." The parties' Decree and MSA are silent on the issue of the location of timeshare exchanges.  
15 Currently, Mitchell makes the children available for Christina to pick up at the Custom Home Finding  
16 Center on the Southwest corner of Marble Ridge Drive and Flamingo Road at the entrance of The  
17 Ridges in the master planned community of Summerlin. The address of the building is 11277 Marble  
18 Ridge Drive. This site is the closest public location to Mitchell's residence and only a few short miles  
19 from Christina's home. Mitchell has been dropping the children off and Christina has been picking  
20 them up there since March 12, 2012 (approximately six (6) months). Christina desires to pick the  
21 children up at Mitchell's residence. Attached as Exhibit K is an email exchange between the parties  
22 regarding the pick-up/drop-off exchange.  
23  
24

25 Christina has harassed Mitchell and Amy since the parties divorced in March of 2008. Even  
26 after Christina pledged that she would stop harassing Mitchell in 2008, she has continued to harass  
27 Mitchell and Amy. When Mitchell and Christina were married, they shared a home in Red Rock  
28



1 Country Club. When the parties agreed to divorce, Christina moved out, and Mitchell remained in the  
2 home. However, for several months after the divorce, while Mitchell was at work, neighbors regularly  
3 reported to him that Christina drove through the neighborhood, looked through the windows at the  
4 house, and periodically checked the mail. On October 24, 2008, Amy was with Mitchell when he went  
5 to pick up the children. When Christina saw that Amy was there, Christina jumped into Mitchell's car,  
6 and in front of the parties' children began screaming that Amy was a "homewrecker," a "bitch," and a  
7 "slut." She only left the car when her father pulled her away. To reduce the potential for conflict,  
8 Mitchell's sister, Megan Cantrell, began facilitating the timeshare exchanges. Ms. Cantrell would pick  
9 up and drop off the children at Christina's home. However, Ms. Cantrell is not always available to drop  
10 off the children.  
11  
12

13 At an appointment for Mia on June 9, 2010, in front of Ethan, Christina called Amy a "bitch"  
14 and a "whore" and screamed at her that "God is punishing you because you can't have children of  
15 your own." Christina usually invites her brother, Anthony Calderon, to pick up the children. Mr.  
16 Calderon has also picked up the children without Christina. The relationship between Mr. Calderon and  
17 Mitchell is detailed extensively in Mitchell's September 23, 2010 filing (pages 13-15). To refresh the  
18 memory of the Court, Mr. Calderon threatened to beat Mitchell up and kill him at Mia's appointment on  
19 June 9, 2010. Mitchell obtained a restraining order against Mr. Calderon, which was later dissolved.  
20 Ms. Vaccarino also represented Mr. Calderon.  
21  
22

23 Mitchell lives with his wife Amy and their son, Mitchell, Jr., who is now almost two (2) years  
24 old, in a gated community in Summerlin. The decision to allow Christina access to their community is  
25 not Mitchell's alone. Amy has a stake in the decision, and both Mitchell and Amy must consider  
26 Mitchell, Jr.'s safety as well. Based on Christina's previous bad behavior as detailed above, neither  
27  
28

1 Mitchell nor Amy wants Christina at or near their home. Accordingly, Mitchell would prefer to  
2 continue to drop off the children at the Custom Home Finding Center near Mitchell's residence.

3  
4 **5. Payment for Insurance Premiums**

5 Christina's motion asks this Court to impose a judgment against Mitchell for his alleged failure  
6 to pay one-half (1/2) of the children's healthcare insurance premiums during the last ten (10) months.  
7 This matter has been addressed by the parties in pleadings and papers before the district court at  
8 hearings before Judge Sullivan on June 9, 2009 and this Court on October 6, 2010. The fact is that  
9 Christina owes Mitchell more than Mitchell allegedly owes Christina, and it is Christina who is  
10 refusing to pay her share.  
11

12 Mitchell explained in great detail to this Court in his September 23, 2010 filing (pages 42-44) the  
13 reasons for offsetting amounts allegedly due Christina against amounts Christina owes Mitchell when he  
14 wrote the following:

15  
16 Christina references in her motion that Mitchell has failed to  
17 reimburse Christina for one-half (1/2) of the medical expenses and costs  
18 she has incurred for the children. However, she does not provide any  
19 support for this conclusion in her motion. Mitchell has reimbursed and/or  
20 intends to reimburse Christina in the time required by the MSA for all  
21 such expenses. See Email Correspondence from Mitchell to Christina  
22 dated August 20, 2010 attached hereto as part of Exhibit 25. The only  
23 matter of dispute between them is whether Christina will reimburse  
24 Mitchell for her share of Mia's occupational therapy at Achievement  
25 Therapy Center and whether Mitchell should pay one-half (1/2) of the  
26 insurance premiums incurred by Christina for insurance covering the  
27 children since June of 2010.<sup>11</sup> Mitchell is entitled to reimbursement for the  
28 costs and expenses of Mia's occupational therapy at Achievement Therapy  
Center even if Christina elected not to participate after June 9, 2010.  
Attached hereto as Exhibit 28 are the invoices from Achievement Therapy  
Center showing the charges incurred and the amounts paid by Mitchell.  
The amount owed by Christina is \$312.50, which Christina refuses to pay  
because she did not participate in the therapy after June 9, 2010. Mitchell  
has not attempted to collect this nominal amount by litigation.

After the parties divorced, Mitchell's former employer continued  
to provide insurance coverage for the children at no cost or expense to

1 Mitchell until approximately June of 2008. After June of 2008, Mitchell  
2 was forced to obtain and pay for a policy of insurance for the children.  
3 Mitchell obtained group coverage (coverage for the children and Mitchell)  
4 and paid the premiums for two (2) years because Christina refused to  
5 reimburse him for the amount allocable to the children. Mitchell did not  
6 file a motion for contempt (or any other motion). He simply paid the  
policy premiums until June of 2010 when Christina separately obtained  
insurance coverage for the children. The amount of the unreimbursed  
premiums is approximately \$2,400.00.

7 Mitchell asked Christina to obtain insurance policies for the  
8 children in May of 2010 because Christina violated his medical privacy by  
9 changing the address on Mitchell's account with Sierra Health & Life  
10 Insurance Company ("SHL") without any right or authority to do so. See  
11 Email Correspondence by and between Mitchell and Christina dated  
12 March 11, 2010 attached hereto as Exhibit 29. SHL investigated the  
13 matter and determined that Mitchell's address "was changed on [his]  
14 group coverage to 11757 Feinberg Place in November 2008 based on a  
15 Form 3547 received from USPS[,] and [i]n May 2009, SHL received  
16 returned mail with a forwarding address from the USPS and [Mitchell's]  
17 home address for [his] current individual policy was changed to the 11757  
18 Feinberg Place address" See Letter from SHL dated April 28, 2010  
19 attached hereto as Exhibit 30. The address referenced in SHL's letter is  
20 Christina's address for the home she purchased after the parties' divorced.  
21 Certainly, Mitchell did not change the address to Christina's home (and  
22 Christina had no right or authority to do so in November of 2008 even for  
23 the children who also reside at Mitchell's residence). Attached hereto as  
24 Exhibit 31 are explanations of benefits from SHL sent to Christina's  
25 address for medical treatment received by Mitchell from the end of 2008  
26 through the beginning of 2010. Mitchell was unaware that Christina was  
27 receiving this information until April of 2010.

28 Included in the explanations of benefits is detailed information on  
medical tests performed by Dr. Eva Littman, a fertility specialist. At the  
time, Mitchell and Amy were attempting to conceive a child. Armed with  
this information, Christina specifically communicated to Amy at Mia's  
occupational therapy session on June 9, 2010 that "God is punishing you  
because you can't have children of your own." See Affidavit of Amy  
attached hereto as part of Exhibit 26.

Mitchell is entitled to credit for the two (2) years of insurance  
premiums and the costs of Mia's occupational therapy that Mitchell paid  
without reimbursement from Christina. However, Mitchell is not asking  
for this Court to intervene. Mitchell is content simply to deduct amounts  
owed to Christina presently and in the future for insurance premiums from  
amounts owed to him for the same until they are paid (after which time he

1 will reimburse Christina for insurance premiums as required by the MSA).  
2 Under these circumstances, Mitchell is certainly not guilty of contempt

3 Judge Potter denied Christina's motion for contempt. Accordingly, Mitchell was authorized to  
4 deduct any amounts he allegedly owed Christina from amounts Christina owed Mitchell. Attached as  
5 Exhibit L is Mitchell's March 27, 2012 email to Christina detailing all outstanding amounts owed to  
6 Mitchell. However, to resolve the matter, Mitchell is willing to waive reimbursement for Christina's  
7 share of the children's insurance premiums from June of 2008 through February of 2009 (\$900.00), the  
8 outstanding amounts for Mia's initial evaluation and final sessions of occupational therapy at  
9 Achievement Therapy Center (\$512.50), the fees charged by Dr. Mishalow for his deposition (\$600),  
10 and the costs of Mia's sessions with Dr. Kalodner (\$500.00). As part of that resolution, however,  
11 Mitchell requests that this Court order that Christina pay her share of the children's insurance premiums  
12 from March 1, 2009 through May 31, 2010. Christina's share of these insurance premiums equals  
13 \$1,230.08, which is still less than the amount Christina claims Mitchell owes her in her motion  
14 (approximately \$970.00). *Id.*; *see also* Exhibit M (Letters from Sierra Health & Life confirming  
15 coverage of the children under Mitchell's personal policy of insurance and payment by Mitchell of the  
16 insurance premiums).  
17  
18  
19

20 Accordingly, Mitchell respectfully asks that this Court enter a judgment against Christina in the  
21 amount of the difference, which is \$260.08. Alternatively, Mitchell will continue to deduct any amounts  
22 he allegedly owes Christina from amounts Christina owes Mitchell after which Mitchell will commence  
23 again paying one-half (1/2) of the children's insurance premiums.  
24

25 **E. Attorney's Fees, Costs and Sanctions**

26 Christina's motion is an attempt to re-litigate the matters already decided by Judge Sullivan and  
27 this Court with the hope that this Court will provide Christina more favorable rulings. Mitchell has  
28 demonstrated that an order to show cause should not be issued because Mitchell has complied with all

1 orders of the district court and applicable rules and procedure. Therefore, Christina should be required  
2 to pay Mitchell's attorney's fees and costs. NRS 18.010 and Section 4.7 of the MSA provide that the  
3 prevailing party in any legal action related to or arising out of the MSA shall be entitled to an award of  
4 attorney's fees and costs incurred by the party.  
5

6 EDCR 7.60(b)(1), (3) and (4) also provides the following:

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

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

12 ...

13 (3) So multiplies the proceedings in a case as to increase costs  
14 unreasonably and vexatiously.

15 (4) Fails or refuses to comply with these rules.

16 Christina and Ms. Vaccarino filed Christina's Motion knowing that it is replete with factual  
17 errors, intentional misrepresentations and personal attacks of Mitchell and undersigned counsel. As  
18 discussed above, the goal of the motion is to re-litigate the matters already decided by Judge Sullivan  
19 and this Court with the hope that this Court will provide Christina more favorable rulings. As such, the  
20 motion is unnecessary and unwarranted. Furthermore, the only matter asserted by Christina that is  
21 properly before this Court is the review of Mitchell's child support obligations. Mitchell believes  
22 Christina's motivation for seeking a review of his child support obligations have little to do with  
23 increasing his support by \$80.00 per month (or as she claims "at least" \$80.00 per month). As  
24 explained above, Christina's motion offers no evidence justifying any deviation from the formula as set  
25 forth in NRS 125B.070(1)(b)(2). Mitchell believes the real purpose is to obtain financial information on  
26 Mitchell's "assets" to revive her claims, which were denied by Judge Sullivan at the hearings on  
27  
28

February 3, 2010 and June 22, 2010 and by this Court on December 1, 2010, that Mitchell fraudulently omitted assets from the division of the marital estate at the time of the parties' divorce. Mitchell also believes Christina is using the threat of disclosure of his personal financial information to Mr. Plise's bankruptcy trustee and creditors with the specific intent to harm Mitchell and Mr. Plise in order to force Mitchell to pay more than his fair share of support.

III.

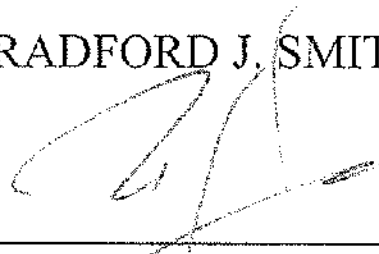
CONCLUSION

Based upon the foregoing, Mitchell requests that this Court:

1. **DENY** Christina's motion in its entirety except that this Court shall review Mitchell's child support obligations based on the formula applicable to joint physical custody arrangements set forth in *Wright v. Osburn* and calculate the "obligation for support" in accordance with NRS 125B.070(1)(b)(2) without any deviations.
2. **GRANT** Mitchell's countermotion for a restraining order to prevent Christina from disclosing to third parties his Financial Disclosure Form and any financial information provided by Mitchell related to the review by the Court of Mitchell's child support obligations. This restraining order would not prohibit Christina from sharing such information with her attorneys and accountants for the purpose of determining the appropriate level of child support.
3. **GRANT** Mitchell's countermotion for mediation at the Family Mediation Center to resolve parenting issues and matters related to insurance premiums.
4. **GRANT** Mitchell's countermotion for attorney's fees, costs and sanctions against Christina.

DATED this 13 day of September, 2012.

RADFORD J. SMITH, CHARTERED

  
\_\_\_\_\_  
RADFORD J. SMITH, ESQ.  
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64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
Attorneys for Defendant



**CERTIFICATE OF SERVICE**

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

I served the foregoing document described as "Countermotion for Mediation of Parenting Issues, a Restraining Order to Prevent Disclosure to Third-parties of Financial Data Related to Child Support Review, and For an Award of Attorney's Fees, Costs and Sanctions" on this 13 day of September, 2012, to all interested parties as follows:

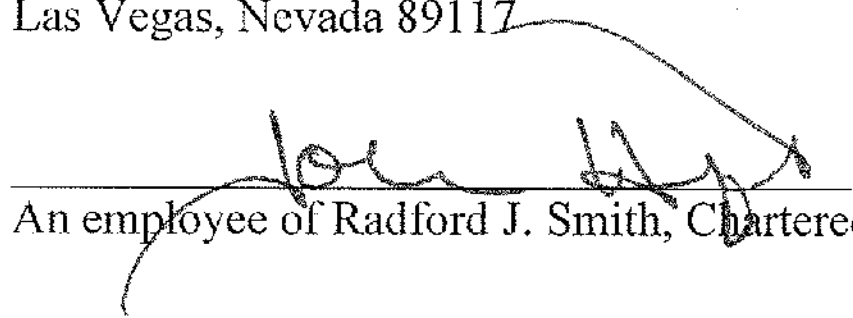
☒ BY MAIL: Pursuant To NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

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

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

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

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

  
An employee of Radford J. Smith, Chartered

1 E-mails and ignores her phone calls and text messages as he deems fit over the past year.

2 MITCH has violated Court orders and Nevada Court Rules and Statutes. An Order to Show  
3 Cause must issue for MITCH to be sanctioned for contempt.

4 **III.**

5 **CHRISTINA IS ENTITLED TO A REVIEW OF CHILD SUPPORT AND AN ARREARS**  
6 **JUDGEMENT**

7 EDCR 5.32

8 **Motions for support; fees and allowances; affidavit of  
financial condition required.**

9 (a) Any motion for fees and allowances, temporary spousal  
10 support, child support, exclusive possession of a community  
11 residence, or any other matter involving the issue of money to  
12 be paid by a party must be accompanied by an affidavit of  
13 financial condition describing the financial condition and needs  
14 of the movant. The affidavit of financial condition must be  
15 prepared on a form approved by the court. An incomplete  
16 affidavit or the absence of the affidavit of financial condition  
17 may be construed as an admission that the motion is not  
18 meritorious and as cause for its denial. Attorney's fees and  
19 other sanctions may be awarded for an untimely, fraudulent, or  
20 incomplete filing.

21 (b) Any party opposing a motion for fees and allowances,  
22 temporary spousal support, child support, exclusive  
23 possession of the community residence, or any other matter  
24 involving the issue of money to be paid by a party must also  
25 submit an affidavit of financial condition describing the financial  
26 condition of that party at the time of the filing of the opposition  
27 or no later than 2 days before the date of hearing, whichever  
28 is earlier. The affidavit of financial condition must be prepared  
on a form approved by the court. The failure of a party  
opposing such motion to file an affidavit of financial condition  
may be construed as an admission that the opposing party has  
the resources to pay the amount requested by the moving  
party or has the resources to permit the other party to have  
exclusive possession of the marital residence. Attorney's fees  
and other sanctions may be awarded for an untimely,  
fraudulent or incomplete filing.

(c) Income of a successor spouse of a party must be listed in  
that party's affidavit of financial condition in the "other income"  
section of the affidavit. If any party resides with an adult person  
other than a spouse, that party's affidavit of financial condition  
must reflect the extent to which the cohabitant contributes to  
that party's expenses.

(d) An affidavit of financial condition may only be filed in open  
court with leave of the

1 judge upon a showing of excusable delay.

2 EDCR 5.33.

3 **Motions for judgment due to arrearages in periodic**  
4 **payments; schedule of arrearages required.**

5 In any case where a party alleges the other party is in  
6 arrears in payment of periodic child support, spousal support  
7 or any other periodic payment and requests relief by motion,  
8 that party shall file with the motion a schedule showing when  
9 each periodic payment was due and how much was paid, if  
any, on the due date, in addition to complying with the other  
requirements of these rules, including, but not limited to, Rule  
5.32. The schedule of arrearages must be prepared on a form  
approved by the court.

10 NRS 125B.140 states as follows:

11 **Enforcement of order for support.**

12 1. Except as otherwise provided in chapter 130 of NRS and  
13 NRS 125B.012:

14 (a) If an order issued by a court provides for payment for  
15 the support of a child, that order is a judgment by operation of  
16 law on or after the date a payment is due. Such a judgment  
may not be retroactively modified or adjusted and may be  
enforced in the same manner as other judgments of this state.

17 (b) Payments for the support of a child pursuant to an  
18 order of a court which have not accrued at the time either party  
19 gives notice that he has filed a motion for modification or  
adjustment may be modified or adjusted by the court upon a  
showing of changed circumstances, whether or not the court  
has expressly retained jurisdiction of the modification or  
adjustment.

20 2. Except as otherwise provided in subsection 3 and NRS  
21 125B.012, 125B.142 and 125B.144:

22 (a) Before execution for the enforcement of a judgment  
23 for the support of a child, the person seeking to enforce the  
24 judgment must send a notice by certified mail, restricted  
delivery, with return receipt requested, to the responsible  
parent:

25 (1) Specifying the name of the court that issued the order  
for support and the date of its issuance;

26 (2) Specifying the amount of arrearages accrued under  
27 the order;

28 (3) Stating that the arrearages will be enforced as a  
judgment; and

1 (4) Explaining that the responsible parent may, within 20  
2 days after the notice is sent, ask for a hearing before a court of  
3 this state concerning the amount of the arrearages.

4 (b) The matters to be adjudicated at such a hearing are  
5 limited to a determination of the amount of the arrearages and  
6 the jurisdiction of the court issuing the order. At the hearing, the  
7 court shall take evidence and determine the amount of the  
8 judgment and issue its order for that amount.

9 (c) The court shall determine and include in its order:

10 (1) Interest upon the arrearages at a rate established  
11 pursuant to NRS 99.040, from the time each amount became  
12 due; and

13 (2) A reasonable attorney's fee for the proceeding,  
14 unless the court finds that the responsible parent would  
15 experience an undue hardship if required to pay such amounts.  
16 Interest continues to accrue on the amount ordered until it is  
17 paid, and additional attorney's fees must be allowed if required  
18 for collection.

19 (d) The court shall include in its order the social security  
20 number of the responsible parent.

21 3. Subsection 2 does not apply to the enforcement of a  
22 judgment for arrearages if the amount of the judgment has  
23 been determined by any court.

24 NRCP 16.2 states in pertinent part as follows:

25 a) Required Disclosures.

26 (1) Financial Disclosure. In divorce, annulment or separate  
27 maintenance actions, a party must complete the court-approved  
28 Financial Disclosure Form. In custody matters between  
unmarried parties where paternity is established, a party must  
complete the cover sheet, the "personal income schedule" and  
the "business income/expense schedule" portions of the  
court-approved Financial Disclosure Form. A party must file and  
serve the completed Financial Disclosure Form no later than 45  
days after service of the summons and complaint.

(A) Failure to File or Serve. If a party fails to timely file or serve  
the financial disclosure form required by this rule, the court shall  
impose an appropriate sanction upon the party or the party's  
attorney, or both, unless the party establishes by clear and  
convincing evidence that there is good cause for the failure.  
After notice and a hearing, the court shall impose appropriate  
sanctions in regard to the failure(s) as are just, including the  
following:

(i) An order treating the party's failure as a contempt of court;

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence; or

(iii) An order requiring the party failing to timely file or serve the disclosure to pay the opposing party's reasonable expenses, including attorney's fees and costs, caused by the failure.

(B) Failure to Include an Asset or Liability. If a party intentionally fails to include a material asset or liability in the party's financial disclosure form, the court, after notice and hearing, may impose an appropriate sanction, including but not limited to the following:

(i) An order awarding the omitted asset to the opposing party as his or her separate property or making another form of unequal division of community property;

(ii) An order treating the party's failure as a contempt of court; or

(iii) An order requiring the party failing to make the disclosure to pay the other party's or opposing party's reasonable expenses, including attorney's fees and costs, related to the omitted items.

...

More than three years have past since child support was set and/or reviewed in this matter. MITCH's statutory child support obligation should be increased according to statute and, at least, based upon the Consumer Price Index increases. MITCH has also left his retired status, and has returned to working as an attorney. CHRISTINA believes MITCH will do everything in his power to avoid submitting a complete and accurate Financial Disclosure Form as required by the law referenced above. Indeed, due to MITCH's alleged "retired" status and then his status of returning to work, MITCH's overall, financial condition, not just his alleged employment status or income, is required to be disclosed and relevant to properly reviewing and setting his obligations for supporting the children. The parties' Decree mandates that MITCH's child support obligation should be set based upon the understanding that CHRISTINA is exercising primary physical custody. CHRISTINA is entitled to a review and increase in child support pursuant of NRS 125B.070, NRS 125B.080 and also NRS 125B.145. Since MITCH has again forced CHRISTINA to bring his contemptuous conduct before the Court, she is also requesting that the Court review and increase MITCH's child support obligation at this time.

As the Schedule of Arrears filed with this Motion reveals, MITCH has failed to pay his share of the children's Court-ordered healthcare insurance premiums on and off for the past year. The

1 year before, MITCH played the same, unnecessary game with CHRISTINA by withholding \$97.00  
2 per month for CHRISTINA apparently for his "sport". CHRISTINA is entitled to a judgment for the  
3 total sum requested, including statutory interest and penalties because the obligation due  
4 CHRISTINA is a child support obligation. MITCH has the means to immediately pay CHRISTINA  
5 the sums due to her. This Court must order that MITCH pay CHRISTINA her judgment and an  
6 award of fees, costs and sanctions within seven days of the hearing or face an Order to Show  
7 Cause, sanctions and potential jail time. If MITCH again violates the Orders of this Court, stricter  
8 sanctions must issue with each contempt citation.

9 IV.

10 **CHRISTINA IS ENTITLED TO AN AWARD OF ATTORNEY'S FEES**  
11 **COSTS AND SANCTIONS**

12 NRS 18.010 states as follows:

13 **Award of attorney's fees.**

14 1. The compensation of an attorney and counselor for his or  
15 her services is governed by agreement, express or implied,  
16 which is not restrained by law.

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

20 (a) When the prevailing party has not recovered more than  
21 \$20,000; or

22 (b) Without regard to the recovery sought, when the court finds  
23 that the claim, counterclaim, cross-claim or third-party  
24 complaint or defense of the opposing party was brought or  
25 maintained without reasonable ground or to harass the  
26 prevailing party. The court shall liberally construe the  
27 provisions of this paragraph in favor of awarding attorney's  
28 fees in all appropriate situations. **It is the intent of the  
Legislature that the court award attorney's fees pursuant  
to this paragraph and impose sanctions pursuant to Rule  
11 of the Nevada Rules of Civil Procedure in all  
appropriate situations to punish for and deter frivolous or  
vexatious claims and defenses because such claims and  
defenses overburden limited judicial resources, hinder the  
timely resolution of meritorious claims and increase the  
costs of engaging in business and providing professional  
services to the public. [Emphasis added.]**

3. In awarding attorney's fees, the court may pronounce its  
decision on the fees at the conclusion of the trial or special  
proceeding without written motion and with or without

1 presentation of additional evidence.

2 4. Subsections 2 and 3 do not apply

3 EDCR 7.60 states as follows:

4 **Sanctions.**

5 (a) If without just excuse or because of failure to give  
6 reasonable attention to the matter, no appearance is made on  
7 behalf of a party on the call of a calendar, at the time set for the  
8 hearing of any matter, at a pre-trial conference, or on the date  
9 of trial, the court may order any one or more of the following:

10 (1) Payment by the delinquent attorney or party of costs,  
11 in such amount as the court may fix, to the clerk or to the  
12 adverse party.

13 (2) Payment by the delinquent attorney or party of the  
14 reasonable expenses, including attorney's fees, to any  
15 aggrieved party.

16 (3) Dismissal of the complaint, cross-claim, counter-claim  
17 or motion or the striking of the answer and entry of judgment by  
18 default, or the granting of the motion.

19 (4) Any other action it deems appropriate, including,  
20 without limitation, imposition of fines.

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

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

(2) Fails to prepare for a presentation.

(3) **So multiplies the proceedings in a case as to  
increase costs unreasonably and vexatiously.**

(4) Fails or refuses to comply with these rules.

(5) Fails or refuses to comply with any order of a judge of  
the court.

[Emphasis added]

23 CHRISTINA has acted in good faith. CHRISTINA has followed the Court's directives and  
24 Orders. MITCH has acted in bad faith, and has told CHRISTINA he will not explain his contempt  
25 violations to her, but to the Court as soon as CHRISTINA files her Motion. Of course, MITCH has  
26 not filed a Motion explaining his reasoning and seeking to modify valid, Court orders. MITCH  
27 simply violates orders and renders his own orders in this case, defying CHRISTINA to file a  
28 Contempt Motion against him. MITCH has ignored simple and common Court Orders, which have



1 caused much stress for the children and for CHRISTINA.

2 Pursuant to Brunzell v. Golden Gate National Bank, 85 Nev. 345, 349, 455 P.2d 31 (1969),  
3 when Courts determine the appropriate fee to award in civil cases, they must consider various  
4 factors, including the qualities of the advocate, the character and difficulty of the work performed,  
5 the work actually performed by the attorney, and the result obtained. Indeed, CHRISTINA is  
6 entitled to all of her fees and costs incurred, plus a monetary, attorney fee sanction to attempt to  
7 deter MITCH's conduct. The parties' MSA also contractually guarantees CHRISTINA and award  
8 of all her attorney's fees and costs.

9 The Nevada Supreme Court has held that an award of post-divorce fees and costs is  
10 discretionary with the District Court. The Supreme Court relied upon NRS 18.050 as well as  
11 Ormachea v. Ormachea, 67 Nev. 273, 301, 271 P.2d 355 (1950), in reaching this holding. These  
12 actions were deemed to be equitable actions, and subject to discretionary assessment of costs.

13 Further, in Halbrook v. Halbrook, 971 P.2d 1262, 114 Nev. 1455 (1998), the Supreme Court  
14 stated that this Court has jurisdiction to award post-divorce attorney's fees to a party. Clearly, in  
15 this matter, CHRISTINA is entitled to fees and costs pursuant to the above-referenced authority  
16 and the facts of this case.

17 CHRISTINA must be awarded a total, minimum of \$7,500.00 in attorney's fees, costs and  
18 sanctions for being forced to file her Motion. MITCH must be sanctioned for his wilful violations  
19 and abuse of the Court's process. Undoubtedly, MITCH will, as his own attorney, fight each and  
20 every issue to his fullest extent, despite how weak or absurd his defenses may appear to a more  
21 objective-minded person. Undoubtedly, MITCH will have many excuses of why he somehow  
22 believes his contempt, self-help and legal maneuvering is justified. Thus, CHRISTINA reserves  
23 the right to seek an additional fee award after reviewing and responding to the treacherous amount  
24 of documentation and unnecessary, legal maneuvering she expects to receive from MITCH.

25 ...

26 ...

27 ...

28

V.

**CONCLUSION**

For all the foregoing reasons, CHRISTINA respectfully requests that her Motion be granted in its entirety. CHRISTINA should receive no less than \$7,500.00 as an award of attorney's fees, costs and sanctions, reserving the right to ask for a larger amount in her Reply should MITCH attempt to further abuse the Court process in his response to CHRISTINA's Motion. MITCH has acted wrongfully, contemptuously and with disregard for the Court's clear Orders. This Court must now and moving forward truly preserve the integrity of Court Orders and the Court process.

DATED this 20<sup>th</sup> day of August, 2012.

Respectfully submitted by:

VACCARINO LAW OFFICE



PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
8861 W. Sahara Ave., Suite 210  
Las Vegas, Nevada 89117-4805  
(702) 258-8007  
Attorney for Plaintiff,  
CHRISTINA CALDERON STIPP

MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

CHRISTINA (AKA) SHIPP

Plaintiff/Petitioner

-vs-

MARCUS SHIPP

Defendant/Respondent

CASE NO. D-03-38207-2

DEPT. M

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

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

MOTION FOR/OPPOSITION TO An Order to Show Cause to Have Decree Enforced

**Notice**

Motions and Oppositions to  
Motions filed after entry of  
final Decree or Judgment  
(pursuant to NRS 125,  
125B & 125C)  
are subject to the Re-open  
Filing Fee of \$25.00, unless  
specifically excluded.  
(See NRS 19.0312)

**Excluded Motions/Oppositions**

- ☐ Motions filed before final Divorce/Custody Decree entered  
(Divorce/Custody Decree NOT final)
- ☐ Child Support Modification ONLY
- ☐ Motion/Opposition For Reconsideration (Within 10 days of Decree)  
Date of Last Order \_\_\_\_\_
- ☐ Request for New Trial (Within 10 days of Decree)  
Date of Last Order \_\_\_\_\_
- ☐ Other Excluded Motion \_\_\_\_\_  
(Must be prepared to defend exclusion to Judge)

**NOTE**: If no boxes are checked, filing fee **MUST** be paid.

☒ Motion/Opp IS subject to \$25.00 filing fee ☐ Motion/Opp IS NOT subject to filing fee

Date: August, 20 12

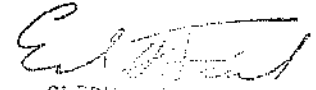
PATRICIA L. VACCARINO, ESQ.  
Printed Name of Preparer

Patricio  
Signature of Preparer



FILED

FEB 4 10 07 AM '09

  
CLERK OF THE COURT

**ORDER**

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTINA CALDERON STIPP,

Plaintiff,

vs.

MITCHELL DAVID STIPP,

Defendant.

CASE NO.: D-08-389203-Z

DEPT.: O

**FAMILY DIVISION**

**ORDER SEALING FILE**

The Court being fully advised in the premises pursuant to Defendant's Ex Parte Request,  
and good cause appearing,

IT IS HEREBY ORDERED that the file in the above matter, pursuant to  
NRS 125.110, be sealed.

DATED this 29 day of January, 2009.

FRANK P. SULLIVAN

DISTRICT COURT JUDGE

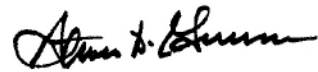
Submitted by:

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.  
Nevada State Bar No. 002791  
64 N. Pecos Rd. - Suite 700  
Henderson, NV 89014  
Attorneys for Defendant

QUESTION 23 TO DOCKETING STATEMENT  
CASE IS SEALED PURSUANT TO NRS 125.110

Electronically Filed  
08/20/2012 05:17:57 PM



CLERK OF THE COURT

**MOT**  
PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
VACCARINO LAW OFFICE  
8861 W. Sahara Ave., Suite 210  
Las Vegas, Nevada 89117  
(702) 258-8007  
Attorney for Plaintiff

**DISTRICT COURT**

**FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

CHRISTINA CALDERON STIPP,

Plaintiff,

vs.

MITCHELL DAVID STIPP,

Defendant.

CASE NO. : D-08-389203-Z  
DEPT. NO.: M

DATE OF HEARING: 09 / 25 / 2012  
TIME OF HEARING: 1 : 30 P.M.

**MOTION FOR AN ORDER TO SHOW CAUSE TO ISSUE AND BE ENFORCED AGAINST  
DEFENDANT. TO COMPEL DEFENDANT'S COMPLIANCE WITH COURT ORDERS. TO  
REDUCE ARREARS DUE BY DEFENDANT TO JUDGMENT. TO REVIEW DEFENDANT'S  
CHILD SUPPORT OBLIGATION. FOR OTHER RELATED RELIEF AND FOR ATTORNEY  
FEES, COSTS AND SANCTIONS**

COMES NOW, Plaintiff, CHRISTINA CALDERON STIPP, ("CHRISTINA"), by and through  
her attorney of record, PATRICIA L. VACCARINO, ESQ. of the VACCARINO LAW OFFICE, and  
hereby submits her Motion, requesting the following relief:

1. For an Order to Show Cause to issue and be enforced against Defendant,  
MITCHELL STIPP, ("MITCH"). MITCH must be ordered to show cause why he  
should not be held in contempt of Court for violating Court Orders, Rules and  
abusing the Court process;
2. An Order directing all child custody exchanges be accomplished by the parent  
receiving custody retrieving the minor children, MIA STIPP, ("MIA"), age seven, and,  
ETHAN STIPP, ("ETHAN"), age five, at the other parent's residence utilizing the  
honk-and-seatbelt rule.
3. An Order reviewing MITCH's child support obligation, and, at minimum, increasing



his child support obligation in conformity with NRS 125B and the parties' Decree and considering the consumer price index increase;

4. An Order granting CHRISTINA an arrears judgment for the children's healthcare insurance premiums paid for ten months;
5. An Order requiring MITCH to pay CHRISTINA one-half of the children's health insurance premiums (\$97.00) by no later than the 15<sup>th</sup> day of each month, without requiring CHRISTINA to tender any further documentation to MITCH. In the event the premium amount increases or decreases, CHRISTINA shall timely notify MITCH, in writing, of the change, and MITCH will thereafter be required to tender the new amount due on the 15<sup>th</sup> day of each month;
6. An Order requiring MITCH to confirm the location of the copies of his Corporate (Aquila) tax returns previously ordered to be disclosed to CHRISTINA, her accountant and her counsel so that the same can be properly assessed;
7. An Order awarding CHRISTINA no less than \$7,500.00 in attorney's fees, costs and sanctions; and,
8. Any further Orders the Court deems just and proper.

This Motion is made and based upon the following Points and Authorities, CHRISTINA's Affidavit and Exhibits filed in support of this Motion, all pleadings and papers on file in this action and any argument to be made by undersigned counsel at the hearing in this matter.

DATED this 20<sup>th</sup> day of August, 2012.

VACCARINO LAW OFFICE



PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
8861 W. Sahara Ave., Suite 210  
Las Vegas, Nevada 89117  
Attorney for Plaintiff,  
CHRISTINA CALDERON STIPP

**NOTICE OF MOTION**

TO: MITCH STIPP, Defendant, and co-counsel for Defendant; and,

TO: RADFORD J. SMITH, ESQ. , co-counsel for Defendant

PLEASE TAKE NOTICE that Plaintiff will bring the foregoing **MOTION FOR AN ORDER TO SHOW CAUSE TO ISSUE AND BE ENFORCED AGAINST DEFENDANT, TO COMPEL DEFENDANT'S COMPLIANCE WITH COURT ORDERS, TO REDUCE ARREARS DUE BY DEFENDANT TO JUDGMENT, TO REVIEW DEFENDANT'S CHILD SUPPORT OBLIGATION, FOR OTHER RELATED RELIEF AND FOR ATTORNEY FEES, COSTS AND SANCTIONS** on for hearing on September 25, 2012 at 1:30 p.m. in Department M.

DATED this 20<sup>th</sup> day August, 2012.

VACCARINO LAW OFFICE



PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
8861 W. Sahara Ave., Suite 210  
Las Vegas, Nevada 89117  
Attorney for Plaintiff,  
CHRISTINA CALDERON STIPP

...

POINTS AND AUTHORITIES

I.

**THIS COURT HAS JURISDICTION TO ENFORCE ITS ORDERS  
AND GRANT CHRISTINA'S MOTION**

In Mack-Manley v. Manley, 122 Nev. 849, 138 P.3d 525, Nev., July 20, 2006, the Supreme Court stated as follows:

This court has consistently explained that "a timely notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in this court and that the point at which jurisdiction is transferred from the district court to this court must be clearly defined. Although, when an appeal is perfected, **the district court is divested of jurisdiction to revisit issues that are pending before this court, the district court retains jurisdiction to enter orders on matters that are collateral to and independent from the appealed order, i.e., matters that in no way affect the appeal's merits.**

See Rust v. Clark Cty. School District, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987) and Smith v. Emery, 109 Nev. 737, 740, 856 P.2d 1386, 1388 (1993) and Huneycutt v. Huneycutt, 94 Nev. at 80, 575 P.2d at 585.

As held in Mack-Manley, although the District Court lacked jurisdiction to modify the custody arrangement under the divorce decree while the ex-wife's appeal from divorce decree was pending, it did have jurisdiction to consider the portion of the ex-husband's Motion concerning contempt. Thus, because the District Court had the power to enforce custody provisions pending appeal, that issue was collateral to the issues before the Appellate Court on appeal from the divorce decree.

It was further decided in Mack-Manley, an Order on which a judgment of contempt is based must be clear and unambiguous, and must spell out the details of compliance in clear, specific and unambiguous terms so that the person will readily know exactly what duties or obligations are imposed on him. In this case, the orders concerning MITCH's contempt are, indeed, clear and unambiguous.

Also, according to Mack-Manley, evidence supported the trial Court's finding that the ex-wife had advanced, in bad faith, allegations that the ex-husband had abused or neglected the children, such that the ex-wife would be held in contempt for violating the Court's custody Order

1 stating that neither party shall do anything which may estrange the children from the other parent  
2 or impair the natural development of the children's love and respect for the other parent. In this  
3 case, CHRISTINA also seeks contempt sanctions against MITCH for violation of the same order  
4 noted in Mack-Manley by the District and Supreme Courts of Nevada.

5 Based upon the above-referenced authority, the District Court has jurisdiction to rule upon  
6 all issues contained in CHRISTINA's Motion. In fact, CHRISTINA has addressed the exact same,  
7 important contempt issue contained in her Motion concerning MITCH's violations as did the ex-  
8 husband in Mack-Manley. Indeed, the Supreme Court found that, "Evidence supported the trial  
9 Court's finding that...ex-wife would be held in contempt for violating the Court's custody Order  
10 stating that neither party shall do anything which may estrange the children from the other parent  
11 or impair the natural development of the children's love and respect for the other parent."  
12 CHRISTINA submits this is the precise provision of Joint Legal Custody which MITCH is  
13 repeatedly violating by his malicious and unilateral conduct. MITCH's harmful and illegal conduct  
14 is evidenced in MITCH's order made to CHRISTINA that the child custody exchanges will now be  
15 accomplished at a small parking lot. MITCH's contempt is further evidenced by MITCH's refusal  
16 to allow contact between mother and the young children for almost three, consecutive weeks while  
17 he was "vacationing" with the children without providing proper notice nor an itinerary to  
18 CHRISTINA this past Summer and for years prior. This Court must now follow the mandates of  
19 Mack-Manley, and schedule an Order to Show Cause hearing. MITCH must be held in contempt  
20 and be held fully accountable for his numerous, wilful violations of Court Orders.

21 Indeed, this Court must enforce all Orders pending appeal by virtue of this Court's  
22 contempt powers. The enforcement issues contained in this Motion can be addressed by this  
23 Court pending appeal.

24 II.

25 **AN ORDER TO SHOW CAUSE MUST ISSUE AND BE ENFORCED AGAINST MITCH**

26 As CHRISTINA's Affidavit filed with this Motion reveals CHRISTINA seeks the Court's  
27 assistance in addressing MITCH's contemptuous actions and violations of Court Orders.  
28 CHRISTINA's Motion is filed only after making numerous, earnest efforts at settlement.

1 CHRISTINA seeks judicial intervention to address the following, ongoing violations by MITCH:  
2 (1) MITCH's continual refusal to provide the Court-ordered, 15-day advance written notice of  
3 out-of-state travel with MIA and ETHAN. See Minute Order dated January 19, 2012 and Order entered  
4 on January 20, 2012; (2) MITCH's refusal to provide detailed written itineraries of such travels as  
5 required by the parties' Decree/Marital Settlement Agreement ("MSA"), filed on March 6, 2008; (3)  
6 MITCH's refusal to provide proper and consistent telephonic communication between CHRISTINA and  
7 the children while in his care as required by our Decree/MSA, as well as the Stipulation and Order  
8 entered on August 7, 2009. Mitch is required to facilitate one daily phone call from MIA and ETHAN  
9 to CHRISTINA when in his care; (4) MITCH's refusal to reimburse CHRISTINA with his share of MIA  
10 and ETHAN's respective health insurance premiums for over ten (10) months as required by the  
11 Decree/MSA (this is MITCH's third, extended and wilful violation on this issue in three years); (5)  
12 Mitch's refusal to abide by the custodial schedule as required by the parties' Decree/MSA, which time  
13 schedule was modified by a Stipulation and Order, entered August 7, 2009, and Judge Sullivan's Order  
14 entered on November 10, 2010, and (6) MITCH's overall refusal to communicate and coparent with  
15 CHRISTINA to meet the needs of the children, and his numerous violations of principles of Joint Legal  
16 Custody, including conduct aimed at estranging the children from CHRISTINA and impairing the  
17 natural development of love and respect the children have for CHRISTINA.

18 CHRISTINA and her counsel have attempted to resolve all such issues directly with MITCH  
19 and his co-counsel for the past year and more. MITCH continually refuses CHRISTINA's attempts  
20 to resolve issues without Court intervention. See the 16 Exhibits filed in support of this Motion  
21 which verify CHRISTINA's valid claims with extensive offers of proof.

22 CHRISTINA has given even more effort for the past 15 months to coparent and cooperate  
23 with MITCH, hoping to avoid returning to Court. MITCH welcomes another appearance in Court,  
24 and wrote CHRISTINA that he was "saving" his "reasons" for his contempt for "Court"! MITCH is  
25 uninterested in coparenting and cooperating with CHRISTINA. MITCH ignores and defies Court  
26 orders. MITCH has not suffered any consequences for his contemptuous conduct in the past.  
27 Thus, MITCH has no reason to follow Court orders because the Orders are somehow repeatedly  
28 not enforced by contempt and sanctions. CHRISTINA and her counsel wonder how many

1 "strikes" the District Court will allow MITCH before calling him "out".

2 MITCH's control over Court Orders recently has become intolerable to CHRISTINA,  
3 because MITCH's conduct is increasingly aimed at harming the children and CHRISTINA's  
4 relationship with the children. Such conduct by MITCH is fully detailed in CHRISTINA's Affidavit.  
5 When MITCH has refused to allow the children to call CHRISTINA for one or two days while they  
6 have been in his care, CHRISTINA has tolerated the abuse and contempt of Court Orders.  
7 However, it was upsetting and inexcusable for CHRISTINA and not in the children's best interest  
8 when MITCH withheld the children's whereabouts from CHRISTINA, and did not allow her daily,  
9 Court-ordered telephone contact with the children for 18 days this past summer.

10 As CHRISTINA's Affidavit reveals, MITCH is constantly removing MIA and ETHAN from the  
11 state without any notice to CHRISTINA. As usual, MITCH does not provide CHRISTINA with the  
12 required 15 days written notice, nor does he provide CHRISTINA any itineraries for his frequent  
13 trips. The parties long ago agreed upon the specific, advance notice provision in the children's  
14 best interests to assist in ensuring their mutual scheduling of such trips to ensure MIA and  
15 ETHAN's healthy and happy adjustment. Judge Sullivan enforced the provision, and admonished  
16 MITCH to comply in 2009!

17 MITCH received a vacation period with MIA and ETHAN in July 2012, which period MITCH  
18 unilaterally extended without an agreement from CHRISTINA (See Exhibit "11"). MITCH refused  
19 to allow the children to contact their mother, even once, by phone for 18 days. CHRISTINA later  
20 learned upon receiving custody of the children that MITCH was attempting to hide his seriously,  
21 neglectful parenting of the children during his vacation. MITCH neglectfully left five year-old  
22 ETHAN alone in a line at a crowded wrestling event at the Mandalay Bay Event Center in early July  
23 2012. ETHAN became extremely frightened when his Dad "lost" him. ETHAN reported to his  
24 Mother that he was able to find someone who assisted ETHAN by escorting him to security and  
25 eventually reuniting ETHAN with his father. MITCH failed to disclose this traumatic incident  
26 experienced by ETHAN to CHRISTINA.

27 CHRISTINA and her counsel fully expect MITCH to distort the true facts of what occurred  
28 at the large event center with ETHAN. However, the point which does not change no matter what

1 "spin" MITCH places on his "story", is the fact that MITCH never divulged to ETHAN's mother  
2 any version of what happened to ETHAN during the upsetting and emotional experience at the  
3 large event center. CHRISTINA only discovered what happened to ETHAN when the children  
4 returned from their extended vacation with MITCH after two-and-one-half weeks. Again, it had  
5 been 18 days since MIA and ETHAN were even able to speak by phone with their mother. Upon  
6 returning to his mother, Ethan was constantly questioning CHRISTINA about being left alone by  
7 MITCH and getting lost. ETHAN repeatedly complained to his mother that his father "left" and  
8 "lost" him, and he was frightened and crying. ETHAN then begged CHRISTINA, on at least four  
9 occasions, to speak with his father to help avoid such a disturbing problem from ever again  
10 occurring. ETHAN has pleaded with CHRISTINA to ask MITCH not to ever leave him alone and  
11 lose him again. Of course, MITCH will not engage in any healthy dialogue with CHRISTINA on this  
12 and other issues affecting the children's welfare. Although CHRISTINA sent MITCH an E-mail on  
13 this and other subjects, MITCH has not responded. According to CHRISTINA's Affidavit and  
14 Exhibits filed in support of this Motion, MITCH has returned to blocking CHRISTINA as a sender  
15 to his E-mail mailbox. See Exhibit "10".

16 NRS 22.010 states as follows:

17 **Acts or omissions constituting contempts.**

18 The following acts or omissions shall be deemed contempts:

19 1. Disorderly, contemptuous or insolent behavior toward  
20 the judge while he is holding court, or engaged in his judicial  
21 duties at chambers, or toward masters or arbitrators while  
sitting on a reference or arbitration, or other judicial  
proceeding.

22 2. A breach of the peace, boisterous conduct or violent  
23 disturbance in the presence of the court, or in its immediate  
24 vicinity, tending to interrupt the due course of the trial or other  
judicial proceeding.

25 3. Disobedience or resistance to any lawful writ, order,  
26 rule or process issued by the court or judge at chambers.

27 4. Disobedience of a subpoena duly served, or refusing  
28 to be sworn or answer as a witness.

5. Rescuing any person or property in the custody of an  
officer by virtue of an order or process of such court or judge



1 at chambers.

2 6. Disobedience of the order or direction of the court  
3 made pending the trial of an action, in speaking to or in the  
4 presence of a juror concerning an action in which the juror has  
5 been impaneled to determine, or in any manner approaching  
6 or interfering with such juror with the intent to influence his  
7 verdict.

8 7. Abusing the process or proceedings of the court or  
9 falsely pretending to act under the authority of an order or  
10 process of the court.

11 MITCH also ignored Court Rules when he filed his Ex  
12 Parte Motion on April 20, 2011. MITCH did not serve  
13 CHRISTINA with this Motion.

14 EDCR 5.25 states as follows:

15 Motions; contents; responses and replies.

16 (a) Rule 2.20 applies to motions and responses filed in the  
17 family division.

18 (b) Factual contentions involved in any family matter must be  
19 presented to the judge or master as provided in Rule 2.21. . .

20 A review of the extensive Court file in this matter reveals that MITCH has consistently  
21 ignored the orders of the Court and the provisions of Joint Legal Custody. However, MITCH has  
22 suffered zero consequences for his actions. This Court has warned MITCH when previously  
23 facing Motions for Contempt that he may face sanctions such as paying attorney's fees.  
24 CHRISTINA and her counsel respectfully urge this Court to fully enforce Chapters 18, 22, 125 and  
25 125B of Nevada Revised Statutes against MITCH. Such strict enforcement may relieve  
26 CHRISTINA of her need to repeatedly seek relief and help from the Court based upon MITCH's  
27 unreasonable and continuous violations of Orders. Of course, such a strict enforcement process  
28 will benefit the minor children who can have two parents following Court Orders, coparenting and  
avoiding the emotional and financial drain of divorce and parent/child litigation.

It is time that this Court send MITCH a strong message that his contemptuous conduct will  
no longer be tolerated. CHRISTINA listened to the Court's directive to give greater effort to  
resolve issues before coming before the Court again. CHRISTINA has tried for 15 months to do  
as the Court directed, while MITCH has ignored CHRISTINA and Court Orders. At the last  
hearing, this Court warned both parties to work together. Only CHRISTINA has attempted to  
coparent and CHRISTINA is complying with Court Orders. MITCH has now blocked CHRISTINA's

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

**INDICATE FULL CAPTION:**

Mitchell David Stipp,  
Appellant/Cross-Respondent,  
vs.  
Christina Calderon Stipp,  
Respondent/Cross-Appellant

No. 62299 Electronically Filed  
Jan 10 2013 04:14 p.m.  
**DOCKETING STATEMENT**  
**CIVIL APPEALS** Priscilla K. Lindeman  
Clerk of Supreme Court  
District Court Case No. D-08-389203-Z  
Case Sealed Pursuant to NRS 125.110

**GENERAL INFORMATION**

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

**WARNING**

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to attach requested documents, fill out the statement completely, or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department M  
County Clark Judge William Potter  
District Ct. Case No. D-08-389203-Z

**2. Attorney filing this docketing statement:**

Attorney Mitchell Stipp, Esq. Telephone 702-378-1907

Firm N/A

Address  
7 Morning Sky Lane  
Las Vegas, Nevada 89135

Client(s) Mitchell Stipp

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondent(s):**

Attorney Patricia Vaccarino, Esq. Telephone 702-258-8007

Firm Vaccarino Law Offices

Address  
8861 W. Sahara Avenue, Suite 210, Las Vegas, Nevada 89117

Client(s) Christina Calderon Stipp

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief
- ☐ Review of agency determination

- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to prosecute
  - ☐ Other (specify): \_\_\_\_\_
- ☐ Divorce decree:
  - ☐ Original ☐ Modification
- ☒ Other disposition (specify): Post-Divorce Order

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child custody
- ☐ Venue
- ☐ Adoption

- ☐ Termination of parental rights
- ☐ Grant/Denial of injunction or TRO
- ☐ Juvenile matters

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Christina Calderon Stipp v. Mitchell David Stipp, Nevada Supreme Court Case Number 57327 (pending).  
Mitchell David Stipp v. Christina Calderon Stipp, Nevada Supreme Court Case Number 57876 (voluntarily dismissed).

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal

(e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:  
Christina's motion before the district court (Case No. D-08-389203-Z) on September 25, 2012 refreshes a series of issues that have previously been raised and addressed before (i) Judge Frank Sullivan (Department O) on June 9, 2009 (notice for out-of-town travel and insurance premiums), December 8, 2009 (telephonic communication), February 3, 2010 (tax returns), May 6, 2010 (telephonic communication), and June 22, 2010 (tax returns), and (ii) Judge Potter (Department M) on October 6, 2010 (insurance premiums and telephonic communication) and December 1, 2010 (tax returns). Christina's motions regarding these issues at these hearing were denied. The order from the hearing on May 6, 2010 is on appeal (Case No. 57327).

**8. Nature of the action.** Briefly describe the nature of the action, including a list of the causes of action pleaded, and the result below:

This is a post-divorce action concerning Christina's motions: (a) for an order to show cause to issue and be enforced against Mitchell for alleged violations of court orders, rules and abuse of process; (b) to direct child custody exchanges at the parties' residences using the "honk-and-seat belt" rule; (c) to review and increase Mitchell's child support obligations based on Christina's claim that she is the de facto primary physical custodian of the children; (d) for an order reducing to judgement alleged arrears for the children's insurance premiums; (e) for an order requiring Mitchell to pay 1/2 of the children's insurance premiums by no later than the 15th of each month; (f) for an order to disclose tax returns of Aquila Investments, LLC; and (g) for an order of \$7,500 in attorney's fees, costs and sanctions.

This post-divorce action also concerns Mitchell's counter motions: (a) to deny Christina's motion in its entirety except that the district court should review Mitchell's child support obligations based on the formula applicable to joint physical custody arrangements set forth in Wright v. Osburn and calculate the "obligation for support" in accordance with NRS 125B.070(1)(b)(2) without any deviations; (b) for a restraining order to prevent Christina from disclosing to third parties his Financial Disclosure Form and any financial information provided by Mitchell related to the review by the district court of Mitchell's child support obligations; (c) for mediation at the Family Mediation Center to resolve parenting issues and matters related to insurance premiums; and (d) for attorney's fees, costs and sanctions against Christina.

The district court (i) denied Christina's request for an order to show cause; (ii) denied Christina's request to pick the children up at Mitchell's residence (but the parties stipulated to exchange the children at Christina's residence using the "honk-and-seat belt" rule); (iii) refused to review Mitchell's child support obligations and delegated its judicial authority to the Family Support Division of the Office of the District Attorney to resolve the matter; (iv) entered a judgement against Mitchell for unpaid insurance premiums in the amount of \$970.00 plus interest and penalties without offsetting amounts owed to Mitchell by Christina; (v) ordered Mitchell to pay his share of insurance premiums on or before the last day of each month without requiring Christina to provide a bill to Mitchell or other documentation except for notices of premium increases; (vi) failed to address the request for Mitchell to disclose the tax returns of Aquila Investments, LLC (so the relief is deemed denied as a matter of law); (vii) denied Mitchell's request to mediate parenting issues not otherwise decided by the court; and (viii) denied the parties' separate requests for attorney's fees and costs.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. May the district court refuse to review Mitchell's child support obligations as required by NRS125B.145(b) and delegate its judicial authority to review child support to the Family Support Division of the Office of the District Attorney for a determination of the appropriate level of support?
2. May the district court refuse to offset insurance premiums and medical expenses paid by Mitchell without contribution by Christina against amounts allegedly due Christina under the terms of their marital settlement agreement as incorporated into their decree of divorce?

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issues raised:

Christina Calderon Stipp v. Mitchell David Stipp, Nevada Supreme Court Case Number 57327, is pending; provided, however, that case does not raise the same or similar issues raised in this appeal.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. **Other issues.** Does this appeal involve any of the following issues?

- ☒ Reversal of well-settled Nevada precedent (on an attachment, identify the case(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☐ A substantial issue of first impression
- ☐ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- ☐ A ballot question

If so, explain:

13. **Trial.** If this action proceeded to trial, how many days did the trial last? \_\_\_\_\_

Was it a bench or jury trial? \_\_\_\_\_

14. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

### **TIMELINESS OF NOTICE OF APPEAL**

15. **Date of entry of written judgment or order appeal from** November 9, 2012.  
**Attach a copy. If more than one judgment or order is appealed from, attach copies of each judgment or order from which this appeal is taken.**

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. **Date written notice of entry of judgment or order served** November 9, 2012.  
**Attach a copy, including proof of service, for each order or judgment appealed from.**

Was service by:

- ☐ Delivery
- ☒ Mail

**17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59),**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

- ☐ NRCP 50(b) Date served \_\_\_\_\_ By delivery ☐ or by mail ☐ Date of filing \_\_\_\_\_
- ☐ NRCP 52(b) Date served \_\_\_\_\_ By delivery ☐ or by mail ☐ Date of filing \_\_\_\_\_
- ☐ NRCP 59 Date served \_\_\_\_\_ By delivery ☐ or by mail ☐ Date of filing \_\_\_\_\_

**Attach copies of all post-trial tolling motions.**

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration do not toll the time for filing a notice of appeal.**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_.

**Attach a copy.**

(c) Date written notice of entry of order resolving tolling motion served \_\_\_\_\_.

**Attach a copy, including proof of service.**

Was service by:

☐ Delivery

☐ Mail

**18. Date notice of appeal filed** December 6, 2012.

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

Mitchell David Stipp, Notice of Appeal filed on December 6, 2012

Christina Calderon Stipp, Notice of Cross-Appeal filed on December 19, 2012

**19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a), NRS 155.190, or other** NRAP 4(a).



## SUBSTANTIVE APPEALABILITY

**20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

- ☒ NRAP 3A(b)(1)    ☐ NRS 155.190 (specify subsection) \_\_\_\_\_  
☐ NRAP 3A(b)(2)    ☐ NRS 38.205 (specify subsection) \_\_\_\_\_  
☐ NRAP 3A(b)(3)    ☐ NRS 703.376 \_\_\_\_\_  
☐ Other (specify) \_\_\_\_\_

Explain how each authority provides a basis for appeal from the judgment or order:

The judgement is a final judgement.

**COMPLETE THE FOLLOWING SECTION ONLY IF MORE THAN ONE CLAIM FOR RELIEF WAS PRESENTED IN THE ACTION (WHETHER AS A CLAIM, COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM) OR IF MULTIPLE PARTIES WERE INVOLVED IN THE ACTION.**

Attach separate sheets as necessary.

**21. List all parties involved in the action in the district court:**

Mitchell David Stipp

Christina Calderon Stipp

If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

**22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims, and the trial court's disposition of each claim, and how each claim was resolved (*i.e.*, order, judgment, stipulation), and the date of disposition of each claim. Attach a copy of each disposition.**

See response set forth in Question 8 above.

**23. Attach copies of the last-filed version of all complaints, counterclaims, and/or cross-claims filed in the district court.**

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action below?**

- ☒ Yes  
☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

**If "Yes", attach a copy of the certification or order, including any notice of entry and proof of service.**

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

### VERIFICATION

**I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.**

Mitchell David Stipp

\_\_\_\_\_  
Name of appellant

January 10, 2013


\_\_\_\_\_  
Date

Clark County, State of Nevada

\_\_\_\_\_  
State and county where signed

Mitchell David Stipp

\_\_\_\_\_  
Name of counsel of record



\_\_\_\_\_  
Signature of counsel record

## CERTIFICATE OF SERVICE

I certify that on the 10th day of January, 2013, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

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

Dated this 10th day of January, 2013.

  
\_\_\_\_\_  
Signature

## Question 12

### **NRS 125B.145 Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.**

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

(a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or

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

Electronically Filed  
11/09/2012 04:20:08 PM

  
CLERK OF THE COURT

NEOJ  
RADFORD J. SMITH, CHARTERED  
RADFORD J. SMITH, ESQ.  
Nevada State Bar No. 002791  
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Mitchell.Stipp@yahoo.com

*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

CHRISTINA CALDERON STIPP,  
  
Plaintiff,  
  
vs.  
  
MITCHELL DAVID STIPP,  
  
Defendant.

CASE NO.: D-08-389203-Z  
  
DEPT NO.: M  
  
**FAMILY DIVISION**

**NOTICE OF ENTRY OF ORDER**

DATE OF HEARING: September 25, 2012

TIME OF HEARING: 1:30 p.m.

PLEASE TAKE NOTICE that on the 9<sup>th</sup> day of November, 2012, the Honorable William S.

...

...

...

...

Potter entered an ORDER FROM HEARING ON PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE AND BE ENFORCED AGAINST DEFENDANT, COMPEL DEFENDANT'S COMPLIANCE WITH COURT ORDERS, REDUCE ARREARS DUE BY DEFENDANT TO JUDGMENT, REVIEW DEFENDANT'S CHILD SUPPORT OBLIGATION, AND FOR ATTORNEY'S FEES; DEFENDANT'S OPPOSITION AND COUNTERMOTION FOR MEDIATION OF PARENTING ISSUES, A RESTRAINING ORDER TO PREVENT DISCLOSURE TO THIRD-PARTIES OF FINANCIAL DATA RELATED TO CHILD SUPPORT REVIEW, AND FOR ATTORNEY'S FEES AND SANCTIONS, a copy of which is attached hereto.

Dated this 9<sup>th</sup> day of November, 2012.

RADFORD J. SMITH, CHARTERED

*Garima Varshney*  
 RADFORD J. SMITH, ESQ. 11878  
 Nevada Bar No. 002791  
 64 N. Pecos Road, Suite 700  
 Henderson, Nevada 89074  
 Attorney for Defendant

**CERTIFICATE OF SERVICE**

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

I served the foregoing document described as "NOTICE OF ENTRY OF ORDER" on this 9<sup>th</sup> day of November, 2012, to all interested parties as follows:

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

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

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

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

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Attorney for Plaintiff

  
An employee of Radford J. Smith, Chartered



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CLERK OF THE COURT

**ORDR**  
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Attorneys for Defendant

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTINA STIPP,  
Plaintiff,

v.

MITCHELL STIPP,  
Defendant.

CASE NO.: D-08-389203-Z  
DEPT NO.: M

**FAMILY DIVISION**

DATE OF HEARING: September 25, 2012  
TIME OF HEARING: 1:30 p.m.

**ORDER FROM HEARING ON PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE  
AND BE ENFORCED AGAINST DEFENDANT, COMPEL DEFENDANT'S COMPLIANCE  
WITH COURT ORDERS, REDUCE ARREARS DUE BY DEFENDANT TO JUDGMENT,  
REVIEW DEFENDANT'S CHILD SUPPORT OBLIGATION, AND FOR ATTORNEY'S FEES;  
DEFENDANT'S OPPOSITION AND COUNTERMOTION FOR MEDIATION OF  
PARENTING ISSUES, A RESTRAINING ORDER TO PREVENT DISCLOSURE TO THIRD-  
PARTIES OF FINANCIAL DATA RELATED TO CHILD SUPPORT REVIEW, AND FOR  
ATTORNEY'S FEES AND SANCTIONS**

Non-Trial Dispositions:

- |  |  |
|--|--|
| <input type="checkbox"/> Other                             | Settled/Withdrawn:   |
| <input type="checkbox"/> Dismissed - Want of Prosecution   | <input type="checkbox"/> Without Judicial Conf/Hrg         |
| <input type="checkbox"/> Involuntary (Statutory) Dismissal | <input checked="" type="checkbox"/> With Judicial Conf/Hrg |
| <input type="checkbox"/> Default Judgment                  | <input type="checkbox"/> By ADR                            |
| <input type="checkbox"/> Transferred                       |  |

Trial Dispositions:

- |   |  |
|---|--|
| <input type="checkbox"/> Disposed After Trial Start | <input type="checkbox"/> Judgment Reached by Trial |
|---|--|

**RECEIVED**  
**OCT 31 2012**  
**DEPT. M**

1 This matter coming regularly on for hearing on the motions of Plaintiff Christina Calderon-Stipp  
2 ("Christina") and countermotions of Defendant Mitchell Stipp ("Mitchell") as referenced above;  
3 Christina, being present and represented by Patricia Vaccarino, Esq. of Vaccarino Law Office, and  
4 Mitchell, being present and represented by Radford Smith, Esq. of Radford J. Smith, Chartered; this  
5 Court, having reviewed the pleadings on file, having heard the arguments of counsel, and being fully  
6 advised in the premises, and good cause appearing therefor, FINDS AND ORDERS AS FOLLOWS:

8 1. Christina has requested that this Court issue an Order to Show Cause against Mitchell  
9 based upon her allegations that he has violated this Court's orders. While Mitchell concedes in his  
10 pleadings, based on the reasons set forth therein, to failing to facilitate daily telephonic communication  
11 with the children, failing always to provide 15 days advance written notice for out of state travel, and  
12 failing to pay health insurance premiums because of alleged offsets due to him, this Court (and prior  
13 courts) have previously addressed these matters, and Mitchell alleges that Christina has also failed to  
14 comply with these same orders. Based on the foregoing, this Court is not going to entertain the Order to  
15 Show Cause or set the matter for an Evidentiary hearing. Therefore, Christina's motion for an Order to  
16 Show Cause is DENIED. The Court, however, admonishes the parties regarding violations of the  
17 Court's orders, stipulations and orders, and their Decree (which includes the parties' marital settlement  
18 agreement), and both parties are directed to abide and comply with all orders issued by this Court and  
19 prior courts. Such compliance should include following all prior orders including, but not limited to,  
20 contact, advanced notice of vacations, providing an itinerary for out-of-town travel, and especially those  
21 provisions in the orders regarding telephonic communication.

25 2. Christina's motion for judgment against Mitchell for unpaid medical premiums is  
26 GRANTED. The Court shall reduce to judgment the sum of \$970.00 as and for medical premium  
27 arrears subject to interest and penalties. Mitchell shall also pay his portion of the medical insurance  
28 premiums, currently \$97.00 per month, on or before the last day of each month. Christina shall not be

1 required to provide Mitchell a bill for his share of the medical insurance premiums; however, she shall  
2 notify him in writing within thirty (30) days of any changes to the amount due. For all other unpaid  
3 healthcare expenses for the care of the minor children, the party incurring such cost shall provide the  
4 receipt or other documentation showing evidence of payment of such expense within thirty (30) days of  
5 incurring such expense to the other party. The party receiving such notice shall have thirty (30) days  
6 from the date of the receipt of such notice to reimburse the other party for one-half of the unreimbursed  
7 healthcare costs.  
8

9 3. Mitchell's request for mediation of the remaining issues raised by the parties in their  
10 motions through the Family Mediation Center (FMC) is DENIED. Furthermore, Mitchell's request to  
11 offset amounts owed to Christina for healthcare expenses with amounts Mitchell previously alleges  
12 Christina owed him is DENIED.  
13

14 4. On the issues of child support raised by the parties' pleadings, the Court directs the  
15 parties to file an action through the Family Support Division of the Office of the District Attorney  
16 (DAFS). Either party may file the appropriate objections to the findings of DAFS regarding the review  
17 of child support if unsatisfied with the result.  
18

19 5. Christina's request to access Mitchell's gated community for child custody exchanges is  
20 DENIED. The parties stipulated at the hearing and the Court hereby orders Mitchell to pick up and drop  
21 off the children at Christina's residence for all such child custody exchanges utilizing the "HONK AND  
22 SEATBELT RULE." When exchanging the children at Christina's residence, Christina shall remain in  
23 the residence, and Mitchell shall remain in his vehicle with his seatbelt fastened. Mitchell shall notify  
24 Christina that he has arrived at the residence by honking the horn on his vehicle. Christina shall release  
25 the children from her home to Mitchell's vehicle, or Mitchell shall release the children from his vehicle  
26 to Christina's home, as applicable.  
27  
28

6. Each party shall bear their own attorney's fees and costs related to the motions and countermotions before the Court.

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

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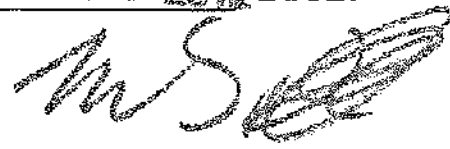
8. The parties acknowledge, pursuant to NRS 125B.145, that an order for the support of a child must, upon the filing of a request for review by:

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


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

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

IT IS SO ORDERED this \_\_\_\_\_ day of NOV 08 2012 2012.

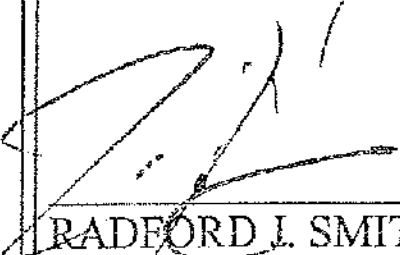
  
DISTRICT COURT JUDGE


*Submitted by:*

*Approved as to form and content:* 

RADFORD J. SMITH, CHARTERED

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