

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

2 MEHMET SAIT KAR,)

3 Appellant,)

4 vs.)

5 KATHLEEN A. KAR,)

6 Respondent.)

Sup. Ct. No.: Electronically Filed
Dist. Ct. No.: 65985
 Jul 21, 2015 09:25 a.m.
 D441849
 Tracie K. Lindeman
 Clerk of Supreme Court

7 **APPELLANT'S**
8 **REPLY BRIEF**

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TABLE OF AUTHORITIES

CASES

Friedman v. the Eighth Judicial District Court of State, 264 P.3d. 1161, 1166,
127 Nev Adv Op. 75 (2011) 2
Carter v. Carter, 276 Neb. 840, 758 N.W.2d 1 (2008)..... 2

STATUTES

NRS 125A.305 2,3
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1 **ADDITIONAL FACTS IN REPLY TO RESPONDENT'S ANSWERING**

2 **BRIEF**

3 Respondent admits all the facts contained in the Appellant's brief and the
4 references to the Joint Appendix. Therefore, the Appeal should be decided in
5 Appellant's favor. Respondent spends the entire factual and argument section
6 of its Answering brief explaining how the court no longer has any jurisdiction
7 over the parties. However, Respondent presents no evidence that the Court did
8 not have jurisdiction at the time of Appellant's initial motion to set aside the
9 support order and modify visitation, to hear the case.

10 **ADDITIONAL ARGUMENT IN REPLY TO RESPONDENT'S**

11 **ANSWERING BRIEF**

12 1) Respondent claims there is no provision requiring the court to stay
13 proceedings pending another court taking jurisdiction and that no
14 statute was cited by Appellant. Clearly Respondent did not read the
15 cited statute only a few words prior to the required stay, specifically
16 NRS 125A.365 which states in pertinent part:

17 125A.365(3) If a court of this state determines that it is an
18 inconvenient forum and that a court of another state is a more
19 appropriate forum, it shall stay the proceedings upon condition that
20 a child custody proceeding be promptly commenced in another
designated state and may impose any other condition the court
considers just and proper.

1 2) All of the cases cited by Appellant in the opening brief stand for the
2 premise that,

3 Nevada is authorized to exercise jurisdiction over a motion to modify if
4 they would have initial jurisdiction under NRS 125A.305. *Friedman v. the*
5 *Eighth Judicial District Court of State*, 264 P.3d. 1161, 1166, 127 Nev Adv Op.
6 75 (2011). NRS 125A.305 grants the Court jurisdiction if “A court of another
7 state does not have jurisdiction pursuant to paragraph (a) or a court of the home
8 state of the minor child has declined to exercise jurisdiction on the ground that
9 the State is the more appropriate forum pursuant to NRS 125A.365 or 125A.375
10 and the child, the child’s parents, or the child and at least one parent or a person
11 acting as a parent, have a significant connection with this State other than mere
12 physical presence; and substantial evidence is available in this State concerning
13 the child’s care, protection, training and personal relationships; Or (d) No
14 Court of any other state would have jurisdiction pursuant to paragraph a, b or c.
15 *See, e.g., Carter v. Carter*, 276 Neb. 840, 758 N.W.2d 1 (2008). AT THE
16 TIME OF THE MOTION, no court of any other state had jurisdiction over the
17 child as Respondent had not resided in England for 6 months. Therefore, the
18 court had jurisdiction under NRS 125A.305 and should have taken jurisdiction.

19 The fact pointed out by Respondent, that the cited cases all dealt with
20 another jurisdiction competing for custody, is on point, however it supports

1 Appellants argument that the court erred in Appellant's case when it did not
2 even engage in an analysis under 125A.305. Specifically, there was no
3 competing court in Appellant's case. The UK did not have an open case,
4 Respondent had resided there less than 6 months, and there was no other forum
5 to review Appellant's motion. By denying the motion without conducting a
6 proper analysis, the Court deprived Appellant of any reasonable and timely
7 review of his case, thus resulting in an extended period of time of little or no
8 contact with his child and paying an overly high support amount.

9 **CONCLUSION**

10 Appellant's Appeal must be granted pursuant to NRS 125A.305(1)(d)
11 and the Court must conduct an inquiry into the factors regarding initial
12 determination jurisdiction and convenient forum under NRS 125A.365.

13 DATED this 20th day of July, 2015

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1 **CERTIFICATE OF COMPLIANCE (Rule 28.2)**

2 I hereby certify that I have read this appellate brief, and to the best of my
3 knowledge, information, and belief, it is not frivolous or interposed for any
4 improper purpose. I further certify that this brief complies with all applicable
5 Nevada Rules of Appellate Procedure, in particular N.R.A.P. 28(e), which
6 requires every assertion in the brief regarding matters in the record to be
7 supported by a page reference to the page of the transcript or appendix where
8 the matter relied on is to be found. I understand that I may be subject to
9 sanctions in the event that the accompanying brief is not in conformity with the
10 requirements of the Nevada Rules of Appellate Procedure.

11 DATED this 20th day of July, 2015

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1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☒ This brief has been prepared in a proportionally spaced typeface using 14 point Times New Roman in MS Word 2010; or

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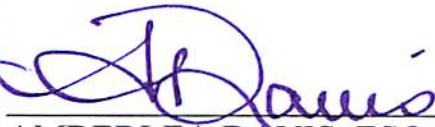
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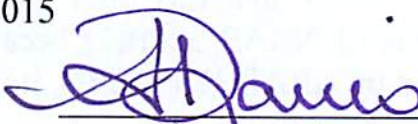
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1 **CERTIFICATE OF SERVICE**

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3 Court's electronic filing and service system (eFlex):

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